

# FEDERAL REGISTER



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Washington, Saturday, January 31, 1948

## TITLE 3—THE PRESIDENT PROCLAMATION 2768

### EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATIONS: DENMARK

BY THE PRESIDENT OF THE UNITED STATES  
OF AMERICA  
A PROCLAMATION

WHEREAS by the act of Congress approved July 17, 1946, 60 Stat. 568, the President is authorized, under the conditions prescribed in that act, to grant an extension of time for the fulfillment of the conditions and formalities for the renewal of trade-mark registrations prescribed by section 12 of the act authorizing the registration of trade-marks used in commerce with foreign nations or among the several States or with Indian tribes, and protecting the same, approved February 20, 1905, as amended (15 U. S. C. 92), by nationals of countries which accord substantially equal treatment in this respect to citizens of the United States of America:

NOW, THEREFORE, I, HARRY S. TRUMAN, President of the United States of America, under and by virtue of the authority vested in me by the aforesaid act of July 17, 1946, do find and proclaim that with respect to trade-marks of nationals of Denmark registered in the United States Patent Office which have been subject to renewal on or after September 3, 1939, there has existed during several years since that date, because of conditions growing out of World War II, such disruption or suspension of facilities essential to compliance with the conditions and formalities prescribed with respect to renewal of such registrations by section 12 of the aforesaid act of February 20, 1905, as amended, as to bring such registrations within the terms of the aforesaid act of July 17, 1946; that Denmark accords substantially equal treatment in this respect to trade-mark proprietors who are citizens of the United States; and that accordingly the time within which compliance with conditions and formalities prescribed with respect to renewal of registrations under section 12 of the aforesaid act of February 20, 1905, as amended, may take place is hereby extended with respect to such registrations which expired after September 3, 1939, and before June 30, 1947, until and including June 30, 1948.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

DONE at the City of Washington this 30th day of January, in the year of our Lord nineteen hundred and [SEAL] forty-eight and of the Independence of the United States of America the one hundred and seventy-second.

HARRY S. TRUMAN

By the President:

G. C. MARSHALL,  
Secretary of State.

[F. R. Doc. 48-1001; Filed, Jan. 30, 1948; 12:06 p. m.]

## TITLE 6—AGRICULTURAL CREDIT

### Chapter III—Farmers Home Administration, Department of Agriculture

#### Subchapter A—Administration

#### PART 300—GENERAL

#### DELEGATION OF AUTHORITY TO ADVERTISE

Section 300.20, "Delegation of Authority to Advertise" in Chapter III of Title 6, Code of Federal Regulations (6 CFR, Cum. Supp., Chapter III, Subchapter A, as amended by 12 F. R. 5297), is amended, effective February 1, 1948, to read as follows:

§ 300.20 *Delegation of authority to advertise.* (a) Effective February 1, 1948, and for the balance of the fiscal year ending June 30, 1948, the Administrator and certain designated officials of the Farmers Home Administration within their jurisdictions are authorized to incur expense for advertising in newspapers and other publications as hereinafter specifically set forth.

(1) State Directors; State Field Representatives; and County Supervisors may advertise public and private foreclosure sales of real and personal property under lien to the Farmers Home Administration (and its predecessor agencies) as required by State laws or by orders of courts of competent jurisdiction.

(2) Chief of the Administrative Services Division; Area Finance Managers; Area Chiefs, Administrative Services Divisions; and State Director, San Juan, Puerto Rico, may advertise:

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(i) In accordance with the applicable provisions of law, the dissolution of corporations and associations (including State Rural Rehabilitation Corporations, Defense Relocation Corporations, Purchasing Associations, and similar associations) and the sale and disposal of all real and personal property under the jurisdiction of the Farmers Home Administration.

(ii) For bids on construction contracts into which the Farmers Home Administration desires to enter.

(iii) In connection with the solicitation of bids for the procurement of office and storage space, services, materials, supplies, and equipment.

(b) This authority includes the selection of county, city, or other newspapers, appropriate trade journals, or other publications of limited or general circulation; and the placing therein of display, or other advertisement which will be sufficient notification to the public of any particular proposal. For any single proposal, no advertisement will appear in more than fifteen newspapers or other publications, nor will more than five insertions be made in the same newspaper or publication, except where a larger

number of newspapers, or other publications, or a greater number of insertions, are required by State laws, or by orders of a court of competent jurisdiction, in which case the required number of newspapers or other publications, or the required number of insertions, or both, will be limited to the number required by such State laws or by such a court order. (R. S. 3828, sec. 12, Pub. Law 600, 79th Cong., 60 Stat. 806; 44 U. S. C. 324)

Issued this 28th day of January 1948.

[SEAL] CLINTON P. ANDERSON,  
Secretary of Agriculture.

[F. R. Doc. 48-883; Filed, Jan. 30, 1948;  
9:02 a. m.]

## TITLE 7—AGRICULTURE

## Chapter VII—Production and Marketing Administration (Agricultural Adjustment)

## PART 711—MARKETING QUOTA REVIEW REGULATIONS

The marketing quota review regulations, 38-AAA-2 (Revised February 1947) are amended by striking out the second sentence of paragraph (a) § 711.34 (12 F. R. 1388) and inserting in lieu thereof, the following:

*Forms and custody and inspection of records.* (a) \* \* \* The following forms prescribed under review regulations heretofore issued, 38-AAA-2 (3 F. R. 1749) are hereby prescribed for use in connection with the review of acreage allotments or quotas until revised, and the references in such forms to the Review Regulations, 38-AAA-2, shall be construed to mean these regulations and the references in such forms to sections 300, 301, 513, Article III, and Article V of the Review Regulations, 38-AAA-2, shall be construed as references to §§ 711.7, 711.8, 711.30, 711.7 to 711.12, inclusive, and 711.22 to 711.32, inclusive, respectively, of the regulations in this part: Form No. 38-AAA-3, Application for Review of Farm Marketing Quota; Form No. 38-AAA-4, Notice of Untimely Filing; Form No. 38-AAA-5, Notice of Insufficiency; Form No. 38-AAA-7, Order of Dismissal; Form No. 38-AAA-8, Determination of Review Committee.

(52 Stat. 62, 63, 64, 66, 55 Stat. 92, sec. 3, 60 Stat. 238; 7 U. S. C. and Sup., 1361-1368, 1375 (b), 5 U. S. C. Sup. 1002)

Done at Washington, D. C., this 28th day of January 1948.

CLINTON P. ANDERSON,  
Secretary of Agriculture.

[F. R. Doc. 48-883; Filed, Jan. 30, 1948;  
9:02 a. m.]

## Chapter IX—Production and Marketing Administration (Marketing Agreements and Orders)

[Orange Reg. 135]

## PART 933—ORANGES, GRAPEFRUIT, AND TANGERINES GROWN IN FLORIDA

## LIMITATION OF SHIPMENTS

§ 933.377 *Orange Regulation 135—(a) Findings.* (1) Pursuant to the market-

ing agreement, as amended, and Order No. 33, as amended (7 CFR, 1946 Supp., Part 933, 12 F. R. 7383) regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of oranges, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the preliminary notice and public rule-making procedure requirements and the 30-day effective date requirement of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) During the period beginning at 12:01 a. m., e. s. t., February 2, 1948, and ending at 12:01 a. m., e. s. t., February 9, 1948, no handler shall ship:

(i) Any oranges, except Temple oranges, grown in Regulation Area I which grade U. S. No. 2 Bright, U. S. No. 2, U. S. Combination Russet, U. S. No. 2 Russet, U. S. No. 3, or lower than U. S. No. 3 grade, as such grades are defined in the United States Standards for citrus fruits, as amended (12 F. R. 6277)

(ii) Any container of oranges, except Temple oranges, grown in Regulation Area I which grade U. S. Combination Grade (as such grade is defined in the aforesaid amended United States Standards) unless at least sixty percent (60%), by count, of the total quantity of oranges in such container meets the requirements of U. S. No. 1 grade (as such grade is defined in the aforesaid amended United States Standards) and each of the remainder of the oranges meets all the requirements of the aforesaid U. S. Combination Grade for oranges meeting the requirements of the U. S. No. 2 grade;

(iii) Any oranges, except Temple oranges, grown in Regulation Area II which grade U. S. Combination Russet, U. S. No. 2 Russet, U. S. No. 3, or lower than U. S. No. 3 grade (as such grades are defined in the aforesaid amended United States Standards);

(iv) Any oranges, except Temple oranges, grown in the State of Florida which (a) are of a size smaller than a size that will pack 288 oranges, packed in accordance with the requirements of a standard pack (as such pack is defined in the aforesaid amended United States Standards), in a standard box (as such box is defined in the aforesaid standards for containers for citrus fruit), or (b) are of a size larger than a size that will pack 150 oranges, packed in accordance with the requirements of a standard pack (as

## RULES AND REGULATIONS

such pack is defined in the aforesaid amended United States Standards) in a standard box (as such box is defined in the aforesaid standards for containers for citrus fruit) or

(v) Any Temple oranges, grown in the State of Florida, which grade U. S. Combination Russet, U. S. No. 2 Russet, U. S. No. 3, or lower than U. S. No. 3 grade (as such grades are defined in the aforesaid amended United States Standards)

(2) As used in this section, the terms "handler," "ship," "Regulation Area I," and "Regulation Area II," shall have the same meaning as is given to each such term in said amended marketing agreement and order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 29th day of January 1948.

[SEAL] S. R. SMITH,  
Director Fruit and Vegetable  
Branch, Production and Mar-  
keting Administration.

[F. R. Doc. 48-942; Filed, Jan. 30, 1948;  
8:53 a. m.]

## [Tangerine Reg. 71]

PART 933—ORANGES, GRAPEFRUIT, AND  
TANGERINES GROWN IN FLORIDA

## LIMITATIONS OF SHIPMENTS

§ 933.378 *Tangerine Regulation 71—*  
(a) *Findings.* (1) Pursuant to the marketing agreement, as amended, and Order No. 33, as amended (7 CFR, 1946 Supp., Part 933, 12 F. R. 7383) regulating the handling of oranges, grapefruit, and tangerines grown in the State of Florida, issued under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendations of the committees established under the aforesaid amended marketing agreement and order, and upon other available information, it is hereby found that the limitation of shipments of tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the preliminary notice and public rule-making procedure requirements and the 30-day effective date requirement of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order* (1) During the period beginning at 12:01 a. m., e. s. t., February 2, 1948, and ending at 12:01 a. m., e. s. t., February 9, 1948, no handler shall ship:

(i) Any tangerines, grown in the State of Florida, which grade U. S. No. 2 Russet, U. S. No. 3, or lower than U. S. No. 3 grade (as such grades are defined in the United States Standards for Tangerines, as amended (12 F. R. 2619)), or

(ii) Any tangerines, grown in the State of Florida, which are of a size smaller than the size that will pack 246 tangerines, packed in accordance with the requirements of a standard pack (as such pack is defined in the aforesaid amended United States Standards) in a half-standard box (inside dimensions  $9\frac{1}{2}$  x  $9\frac{1}{2}$  x  $19\frac{1}{8}$  inches; capacity 1,726 cubic inches)

(2) As used in this section, "handler" and "ship" shall have the same meaning as is given to each such term in said amended marketing agreement and order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 29th day of January 1948.

[SEAL] S. R. SMITH,  
Director Fruit and Vegetable  
Branch, Production and Mar-  
keting Administration.

[F. R. Doc. 48-944; Filed, Jan. 30, 1948;  
8:53 a. m.]

## [Lemon Reg. 259]

PART 953—LEMONS GROWN IN CALIFORNIA  
AND ARIZONA

## LIMITATION OF SHIPMENTS

§ 953.366 *Lemon Regulation 259—*(a)  
*Findings.* (1) Pursuant to the marketing agreement and Order No. 53 (7 CFR, Cum. Supp., 953.1 et seq.) regulating the handling of lemons grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee, established under the said marketing agreement and order, and upon other available information, it is hereby found that the limitation of the quantity of such lemons which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the preliminary notice and public rule-making procedure requirements and the 30-day effective date requirement of the Administrative Procedure Act (Pub. Law 404, 79th Cong., 2d Sess., 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order* (1) The quantity of lemons grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., February 1, 1948, and ending at 12:01 a. m., P. s. t., February 8, 1948, is hereby fixed at 200 carloads, or an equivalent quantity.

(2) The prorated base of each handler who has made application therefor, as provided in the said marketing agreement and order, is hereby fixed in accordance with the prorated base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," "carloads," and "prorated base" shall have the same meaning as is given to each such term in the said marketing agreement and order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 29th day of January 1948.

[SEAL] S. R. SMITH,  
Director, Fruit and Vegetable  
Branch, Production and Mar-  
keting Administration.

## PRORATE BASE SCHEDULE

Storage Date: January 25, 1948

[12:01 a. m. February 1, 1948, to 12:01 a. m.  
February 15, 1948]

Handler	Prorate base (percent)
Total	100.000
Allen-Young Citrus Packing Co.	.000
American Fruit Growers, Corona	.393
American Fruit Growers, Fullerton	.598
American Fruit Growers, Lindsay	.000
American Fruit Growers, Upland	.466
Consolidated Citrus Growers	.016
Hazeltine Packing Co.	1.716
McKellips, C. H.-Phoenix Citrus Co.	.000
McKellips Mutual Citrus Growers Inc.	.000
Phoenix Citrus Packing Co.	.018
Ventura Coastal Lemon Co.	1.706
Ventura Pacific Co.	1.062
Total A. F. G.	5.976
Arizona Citrus Growers	.162
Desert Citrus Growers Co.	.059
Mesa Citrus Growers	.113
Klink Citrus Association	2.872
Lemon Cove Association	1.819
Glendora Lemon Growers Association	1.543
La Verne Lemon Association	.034
La Habra Citrus Association, The	.009
Yorba Linda Citrus Association, The	.627
Alta Loma Heights Citrus Association	.410
Etiwanda Citrus Fruit Association	.430
Mountain View Fruit Association	1.008
Old Baldy Citrus Association	1.322
Upland Lemon Growers Association	4.906
Central Lemon Association	.489
Irvine Citrus Association, The	.978
Placentia Mutual Orange Association	.535
Corona Citrus Association	1.069
Corona Foothill Lemon Co.	2.492
Jameson Co.	1.292
Arlington Heights Citrus Co.	.954
College Heights Orange & Lemon Association	4.136
Chula Vista Citrus Association, The	.970
El Cajon Valley Citrus Association	.492
Escondido Lemon Association	4.163
Fallbrook Citrus Association	2.579
Lemon Grove Citrus Association	.467
San Dimas Lemon Association	2.086
Carpinteria Lemon Association	2.031
Carpinteria Mutual Citrus Association	2.675
Goleta Lemon Association	2.879
Johnston Fruit Co.	5.550
North Whittier Heights Citrus Association	.094
San Fernando Heights Lemon Association	3.227
San Fernando Lemon Association	1.503
Sierra-Madre-Lamanda Citrus Association	1.240
Tulare County Lemon & Grapefruit Association	5.096

## PRORATE BASE SCHEDULE—Continued

Handler	Prorate base (percent)
Briggs Lemon Association.....	0.799
Culbertson Investment Co.....	.424
Culbertson Lemon Association.....	.463
Fillmore Lemon Association.....	1.905
Oxnard Citrus Association, Plant No. 1.....	1.590
Oxnard Citrus Association, Plant No. 2.....	.894
Rancho Sespe.....	.734
Santa Paula Citrus Fruit Association.....	2.328
Saticoy Lemon Association.....	1.900
Seaboard Lemon Association.....	2.054
Somis Lemon Association.....	1.029
Ventura Citrus Association.....	.928
Limoneira Company.....	.914
Teague-McKevett Association.....	.272
East Whittier Citrus Association.....	.529
Lefingwell Rancho Lemon Association.....	.224
Murphy Ranch Company.....	.721
Whittier Citrus Association.....	.630
Whittier Select Citrus Association.....	.125
<b>Total C. F. G. E.</b> .....	<b>85.048</b>
Arizona Citrus Products Co.....	.022
Chula Vista Mutual Lemon Association.....	.861
Escondido CoOperative Citrus Association.....	.576
Glendora CoOperative Citrus Association.....	.040
Index Mutual Association.....	.176
La Verne CoOperative Citrus Association.....	2.862
Libbey Fruit Co.....	.074
Orange CoOperative Citrus Association.....	.119
Pioneer Fruit Co.....	.013
Tempe Citrus Co.....	.000
Ventura Co. Orange & Lemon Association.....	1.390
Whittier Mut. Orange & Lemon Association.....	.163
<b>Total M. O. D.</b> .....	<b>6.296</b>
Abbate, Chas. Co., The.....	.000
California Citrus Groves, Inc. Ltd.....	.120
Evans Bros. Package Co.-Riverside.....	.207
Evans Bros. Package Co.-Sentinel Butte Ranch.....	.074
Harding & Leggett.....	.361
Leppia-Pratt Produce Distributors Inc.....	.000
Levinson, Sam.....	.186
McCartney Fruit Co.....	.077
Orange Belt Fruit Distributors.....	.956
Potato House, The.....	.000
Reimers, Don H.....	.039
Rooke, B. G., Packing Co.....	.059
San Antonio Orchard Co.....	.224
Valley Citrus Packing Co.....	.000
Verity, R. H. Sons & Co.....	.378
Webb Packing Co., Inc.....	.000
<b>Total Independents</b> .....	<b>2.681</b>

[F. R. Doc. 48-943; Filed Jan. 30, 1948; 8:53 a. m.]

[Orange Reg. 215]

## PART 966—ORANGES GROWN IN CALIFORNIA AND ARIZONA

## LIMITATION OF SHIPMENTS

§ 966.361 *Orange Regulation 215*—(a) *Findings.* (1) Pursuant to the provisions of Order No. 66 (7 CFR, Cum. Supp., 966.1 et seq.) regulating the handling of oranges grown in the State of California or in the State of Arizona, effective under the applicable provisions of the Agri-

cultural Marketing Agreement Act of 1937, as amended, and upon the basis of the recommendation and information submitted by the Orange Administrative Committee, established under the said order, and upon other available information, it is hereby found that the limitation of the quantity of such oranges which may be handled, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is hereby further found that compliance with the preliminary notice and public rule-making procedure requirements and the 30-day effective date requirement of the Administrative Procedure Act (Pub. Law 404, 78th Cong., 2d Sess., 60 Stat. 237) is impracticable and contrary to the public interest in that the time intervening between the date when information upon which this section is based became available and the time when this section must become effective in order to effectuate the declared policy of the Agricultural Marketing Agreement Act of 1937, as amended, is insufficient for such compliance, and a reasonable time is permitted, under the circumstances, for preparation for such effective date.

(b) *Order.* (1) The quantity of oranges grown in the State of California or in the State of Arizona which may be handled during the period beginning at 12:01 a. m., P. s. t., February 1, 1948, and ending at 12:01 a. m., P. s. t., February 8, 1948, is hereby fixed as follows:

(i) *Valencia oranges.* Prorate Districts Nos. 1, 2 and 3, no movement.

(ii) *Oranges other than Valencia oranges.* (a) Prorate District No. 1, 325 carloads; (b) Prorate District No. 2, 525 carloads; and (c) Prorate District No. 3, unlimited movement.

(2) The prorate base of each handler who has made application therefor, as provided in the said order, is hereby fixed in accordance with the prorate base schedule which is attached hereto and made a part hereof by this reference.

(3) As used in this section, "handled," "handler," and "carloads," and "prorate base" shall have the same meaning as is given to each such term in the said order; and "Prorate District No. 1," "Prorate District No. 2," and "Prorate District No. 3" shall have the same meaning as is given to each such term in § 966.107 of the rules and regulations (11 F. R. 10258) issued pursuant to said order. (48 Stat. 31, as amended; 7 U. S. C. 601 et seq.)

Done at Washington, D. C., this 29th day of January 1948.

[SEAL] S. R. SMITH,  
Director Fruit and Vegetable  
Branch, Production and Marketing Administration.

## PRORATE BASE SCHEDULE

[12:01 a. m. February 1, 1948 to 12:01 a. m. February 8, 1948]

## ALL ORANGES OTHER THAN VALENCIA ORANGES

## Prorate District No. 1

Handler	Prorate base (percent)
<b>Total</b> .....	<b>100.0000</b>
A. F. G. Lindsay.....	.0000
A. F. G. Porterville.....	.0000

## PRORATE BASE SCHEDULE—Continued

## ALL ORANGES OTHER THAN VALENCIA ORANGES—continued

## Prorate District No. 1—Continued

Handler	Prorate base (percent)
A. F. G. Sides.....	0.0000
Ivanhoe Cooperative.....	.0000
Dofflemeyer, W. Todd & Son.....	.7725
Elderwood Citrus Association.....	1.2119
Exeter Citrus Association.....	3.6459
Exeter Orange Growers Association.....	1.6974
Exeter Orchards Association.....	1.8660
Hillside Packing Association, The.....	1.9532
Ivanhoe Mutual Orange Association.....	1.3759
Klink Citrus Association.....	5.7469
Lemon Cove Association.....	2.4129
Lindsay Citrus Growers Association.....	.0000
Lindsay Coop. Citrus Association.....	1.8379
Lindsay District Orange Co.....	2.0715
Lindsay Fruit Association.....	2.6333
Lindsay Orange Growers Association.....	1.6153
Naranjo Packing House Co.....	1.1197
Orange Cove Citrus Association.....	4.3343
Orange Cove Orange Growers Association.....	3.2519
Orange Packing Co.....	1.6363
Orest Foothill Citrus Association.....	1.7802
Paloma Citrus Fruit Association.....	1.3837
Pogue Packing House, J. E.....	.0000
Rocky Hill Citrus Association.....	2.1710
Sanger Citrus Association.....	3.8129
Sequola Citrus Association.....	1.3832
Stark Packing Corp.....	3.1742
Visalia Citrus Association.....	1.2320
Waddell & Son.....	3.1830
Butte County Citrus Association, Inc.....	.0000
Mills Orchard Co., James.....	.0000
Orland Orange Growers Association, Inc.....	.0000
Andrews Edison Groves.....	.0000
Baird Neece Corp.....	2.4833
Beattie Association, Agnes M.....	.0000
Grand View Heights Citrus Association.....	3.1272
Magnolia Citrus Association, The.....	3.0628
Porterville Citrus Association, The.....	1.7743
Richgrove-Jasmine Citrus Association.....	1.9750
Sandilands Fruit Co.....	1.7372
Strathmore Coop. Association.....	2.5676
Strathmore District Orange Association.....	2.4369
Strathmore Fruit Growers Association.....	1.6757
Strathmore Packing House Co.....	2.5367
Sunflower Packing Association.....	3.2753
Sunland Packing House Co.....	3.0829
Terra Bella Citrus Association.....	2.0553
Tule River Citrus Association.....	1.6772
Vandalla Packing Association.....	1.1339
Kroells Bros., Ltd.....	.0000
Lindsay Mutual Groves.....	.0000
Martin Ranch.....	1.4714
Woodlake Packing House.....	.0000
Anderson Packing Co., R. H.....	.0000
Baker Bros.....	.0000
California Citrus Groves, Inc., Ltd.....	.0000
Caswell, John.....	.0190
Chees Company, Meyer W.....	.0000
Edison Groves Co.....	.0000
Evans Bros. Packing Co.....	.0000
Exeter Groves Packing Co.....	.0000
Furr, N. C.....	.2833
Ghlanda Ranch Association.....	.0251
Harding & Leggett.....	2.0031
Justman-Frankenthal Co.....	.0000
Levinson, Sam.....	.0000
Lo Bue Bros.....	1.1593
Marks, W. & M.....	.0000
Paramount Citrus Association.....	1.6224
Raymond Bros.....	1.6550
R. M. C. Porterville.....	.0000
Reimers, Don H.....	.0000
Rooke Packing Co., B. G.....	1.8329
Toy, Chin.....	.0331

## RULES AND REGULATIONS

## PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—  
continued

## Prorate District No. 1—Continued

Handler	Prorate base (percent)
Webb Packing Co.....	0.0000
Wollenman Packing Co.....	.0000
Woodlake Heights Packing Corp.....	.0000
Zaninovich Bros.....	.6340

## Prorate District No. 2

Total.....	100.0000
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A. F. G. Alta Loma.....	.1634
A. F. G. Corona.....	.5276
A. F. G. Fullerton.....	.0528
A. F. G. Orange.....	.0565
A. F. G. Riverside.....	.5372
Hazeltine Packing Co.....	.1324
Placentia Pioneer Valencia Growers Association.....	.0615
Signal Fruit Association.....	.9516
Azusa Citrus Association.....	.9365
Azusa Orange Co.....	.1327
Damerel-Allison Co.....	1.0684
Glendora Mutual Orange Associa- tion.....	.5141
Irwindale Citrus Association.....	.3600
Puente Mutual Citrus Association.....	.0475
Valencia Heights Orchard Associa- tion.....	.2183
Covina Citrus Association.....	1.3818
Covina Orange Growers Associa- tion.....	.4342
Duarte-Monrovia Fruit Exchange.....	.3757
Glendora Citrus Association.....	.9072
Glendora Heights Orange & Lemon Growers Association.....	.1580
Gold Buckle Association.....	3.5842
La Verne Orange Association.....	3.6449
Anaheim Citrus Fruit Association.....	.0798
Anaheim Valencia Orange Associa- tion.....	.0133
Eadlington Fruit Company, Inc.....	.2783
Fullerton Mutual Orange Associa- tion.....	.2166
La Habra Citrus Association.....	.1254
Orange County Valencia Associa- tion.....	.0282
Orangethorpe Citrus Association.....	.0256
Placentia Coop. Orange Associa- tion.....	.0472
Yorba Linda Citrus Association, The.....	.0094
Alta Loma Heights Citrus Associa- tion.....	.4014
Citrus Fruit Growers.....	.9545
Cucamonga Citrus Association.....	.5810
Etiwanda Citrus Fruit Association.....	.2121
Mountain View Fruit Association.....	.1785
Old Baldy Citrus Association.....	.4580
Rialto Heights Orange Growers.....	.4248
Upland Citrus Association.....	2.1631
Upland Heights Orange Associa- tion.....	1.0955
Consolidated Orange Growers.....	.0314
Frances Citrus Association.....	.0034
Garden Grove Citrus Association.....	.0277
Goldenwest Citrus Association, The.....	.1168
Olive Heights Citrus Association.....	.0496
Santa Ana-Tustin Mutual Citrus Association.....	.0217
Santiago Orange Growers Associa- tion.....	.1400
Tustin Hills Citrus Association.....	.0313
Villa Park Orchards Association, The.....	.0275
Bradford Bros., Inc.....	.2377
Placentia Mutual Orange Associa- tion.....	.1695
Placentia Orange Growers Associa- tion.....	.1939
Call Ranch.....	.6503
Corona Citrus Association.....	.9107
Jameson Co.....	.3378
Orange Heights Orange Association.....	1.0250
Crafton Orange Growers Associa- tion.....	1.4677

## PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—  
continued

## Prorate District No. 2—Continued

Handler	Prorate base (percent)
E. Highlands Citrus Association.....	0.4825
Fontana Citrus Association.....	.4152
Highland Fruit Growers Associa- tion.....	.6542
Redlands Heights Groves.....	1.0269
Redlands Orangedale Association.....	1.1431
Break & Son, Allen.....	.2987
Bryn Mawr Fruit Growers Associa- tion.....	1.1758
Krinnard Packing Co.....	1.7149
Mission Citrus Association.....	.8031
Redlands Coop. Fruit Association.....	1.7821
Redlands Orange Growers Associa- tion.....	1.2276
Redlands Select Groves.....	.5338
Rialto Citrus Association.....	.5082
Rialto Orange Co.....	.2793
Southern Citrus Association.....	.9840
United Citrus Growers.....	.6521
Zilen Citrus Co.....	.7847
Andrews Brothers of California.....	.4374
Arlington Heights Citrus Co.....	.6038
Brown Estate, L. V. W.....	1.7582
Gavilan Citrus Association.....	1.6724
Hemet Mutual Groves.....	.3228
Highgrove Fruit Co.....	.6607
McDermott Fruit Co.....	1.7982
Monte Vista Citrus Association.....	1.1821
National Orange Co.....	.8256
Riverside Heights Orange Growers Association.....	1.3014
Sierra Vista Packing Association.....	.7052
Victoria Avenue Citrus Association.....	2.7132
Claremont Citrus Association.....	1.1218
College Heights Orange and Lemon Association.....	1.1707
El Camino Citrus Association.....	.5201
Indian Hill Citrus Association.....	1.3075
Pomona Fruit Growers Exchange.....	1.9455
Walnut Fruit Growers Exchange.....	.4733
West Ontario Citrus Association.....	1.5303
El Cajon Valley Citrus Association.....	.2852
Escondido Orange Association.....	.5072
San Dimas Orange Growers Associa- tion.....	1.0033
Ball & Tweedy Association.....	.0925
Canoga Citrus Association.....	.0643
N. Whittier Heights Citrus Associa- tion.....	.1167
San Fernando Fruit Growers Associa- tion.....	.3358
San Fernando Heights Orange Associa- tion.....	.3362
Sierra - Madre - Lamanda Citrus Association.....	.2161
Camarillo Citrus Association.....	.0090
Fillmore Citrus Association.....	1.8360
Ojai Orange Association.....	1.0165
Piru Citrus Association.....	1.1696
Santa Paula Orange Association.....	.1176
Tapo Citrus Association.....	.0065
E. Whittier Citrus Association.....	.0149
Whittier Citrus Association.....	.2592
Whittier Select Citrus Association.....	.0433
Anaheim Coop. Orange Association.....	.0702
Bryn Mawr Mutual Orange Associa- tion.....	.5682
Ohula Vista Mut. Lemon Associa- tion.....	.1639
Escondido Coop. Citrus Association.....	.1044
Euclid Avenue Orange Association.....	2.2281
Foothill Citrus Union, Inc.....	.1111
Fullerton Coop. Orange Associa- tion.....	.0355
Garden Grove Orange Coop., Inc.....	.0269
Glendora Coop. Citrus Association.....	.0699
Golden Orange Groves, Inc.....	.2926
Highland Mutual Groves, Inc.....	.3019
Index Mutual Association.....	.0040
La Verne Coop. Citrus Association.....	2.8101
Mentone Heights Association.....	.8513
Olive Hillside Groves.....	.0231
Orange Coop. Citrus Association.....	.0431
Redlands Foothills Groves.....	2.3757

## PRORATE BASE SCHEDULE—Continued

ALL ORANGES OTHER THAN VALENCIA ORANGES—  
continued

## Prorate District No. 2—Continued

Handler	Prorate base (percent)
Redlands Mutual Orange Associa- tion.....	0.9467
Riverside Citrus Association.....	.3804
Ventura County Orange & Lemon Association.....	.1990
Whittier Mutual Orange & Lemon Association.....	.0388
Babyljuice Corp. of California.....	.5959
Banks Fruit Co.....	.2228
California Fruit Distributors.....	.0577
Cherokee Citrus Co., Inc.....	1.0716
Chess Company, Meyer W.....	.4103
Evans Bros. Packing Co.....	.8405
Gold Banner Association.....	2.0890
Granada Packing House.....	.6114
Hill, Fred A.....	.7383
Inland Fruit Dealers.....	.2884
Orange Belt Fruit Distributors.....	1.8945
Panno Fruit Co., Carlo.....	.1942
Paramount Citrus Association.....	.1184
Placentia Orchards Co.....	.9289
San Antonio Orchards Co.....	1.3907
Snyder & Sons Co., W. A.....	.5786
Torn Ranch.....	.0608
Verity & Sons Co., R. H.....	.0865
Wall, E. T.....	1.6805
Western Fruit Growers, Inc., Reds.....	2.8979
Yorba Orange Growers Association.....	.0557

[F. R. Doc. 48-945; Filed, Jan. 30, 1948;  
8:53 a. m.]TITLE 8—ALIENS AND  
NATIONALITYChapter I—Immigration and Natural-  
ization Service, Department of Jus-  
ticePART 176—DOCUMENTARY REQUIREMENTS  
FOR ALIENS, EXCEPT SEAMEN AND AIRMEN,  
ENTERING THE UNITED STATESCROSS REFERENCE: For amendments to  
regulations of the State Department  
concerning documentary requirements  
for aliens entering the United States, see  
Title 22, Chapter I, Part 61, *infra*.

## TITLE 21—FOOD AND DRUGS

Chapter I—Food and Drug Adminis-  
tration, Federal Security AgencyPART 141—TESTS AND METHODS OF ASSAY  
FOR ANTIBIOTIC DRUGSPART 146—CERTIFICATION OF BATCHES OF  
PENICILLIN- OR STREPTOMYCIN-CONTAIN-  
ING DRUGS

## MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the  
Federal Security Administrator by the  
provisions of section 507 of the Federal  
Food, Drug, and Cosmetic Act (52 Stat.  
1040, 1055, as amended by 59 Stat. 463  
and Public Law 16, 80th Cong., 21 U. S. C.  
Sup. 357) the regulations for tests and  
methods of assay of antibiotic drugs (12  
F. R. 2215) and certification of batches  
of penicillin- or streptomycin-containing  
drugs (12 F. R. 2231), as amended, are  
hereby further amended as indicated  
below:1. Section 141.14 is amended to read:  
§ 141.14 *Penicillin with vasocon-  
strictor—(a) Penicillin.* Proceed as di-

rected in §§ 141.1, 141.2, 141.3, 141.4, and 141.5.

(b) *Dry mixture of penicillin with vasoconstrictor.* Proceed as directed in §§ 141.1, 141.15 (b) and 141.5 (a)

2. The headnote of § 141.16 is amended to read: "Tablets aluminum penicillin."

3. Part 141 is amended by adding the following new sections:

§ 141.24 *Aluminum penicillin*—(a) *Potency.* Proceed as directed in § 141.1.

(b) *Sterility.* Proceed as directed in § 141.2.

(c) *Pyrogens.* Proceed as directed in § 141.3, but in lieu of the directions for preparation of sample in paragraph (b) thereof, prepare sample as follows:

Suspend approximately 60 milligrams in 20 milliliters of pyrogen-free sterile physiological salt solution, adding the salt solution in approximately 1-milliliter aliquots and mixing thoroughly after each addition, utilizing a pyrogen-free glass stirring rod. Centrifuge, warm to 37° C., withdraw the clear supernatant solution, and inject 1 milliliter per kilogram of rabbit.

(d) *Toxicity.* Proceed as directed in § 141.4, utilizing the solution prepared in paragraph (c) of this section.

(e) *Moisture.* Proceed as directed in § 141.5 (a)

(f) *pH.* Proceed as directed in § 141.5 (b) using a saturated solution.

(g) *Penicillin-K content.* Proceed as directed in § 141.5 (g)

§ 141.25 *Aluminum penicillin in oil*—(a) *Potency, sterility.* Proceed as directed in § 141.7.

(b) *Moisture.* Proceed as directed in § 141.23 (c)

4. Section 146.24 (b) lines 14 and 15, of the second sentence as published on 12 F. R. 2237, are amended to read: "dental use each such container may contain not less than 10,000 units, and each"

5. Section 146.24 (d) (2) (iii), first sentence, is amended to read: "If it is packaged in containers of less than 100,000 units each for dental use, then not less than 20 and not more than 100 immediate containers if it is not crystalline penicillin, and not less than 40 and not more than 100 immediate containers if it is crystalline penicillin."

6. Section 146.24 (e) (1) is amended to read:

(1) \$4.00 for each immediate container in the sample submitted in accordance with paragraphs (d) (2), (3) and (4) of this section, except if packaged in containers of less than 100,000 units each for dental use, \$1.00 for each immediate container and.

7. Section 146.30 (a), line 5 of the first sentence as published at 12 F. R. 2240, is amended to read: "cants, with or without ethyl aminobenzoate or one or more suit—"

8. Section 146.32 is amended to read:

§ 146.32 *Penicillin with vasoconstrictor* *penicillin with* \_\_\_\_\_ (the blank being filled in with the common or usual name of the vasoconstrictor)—(a) *Standards of identity, strength, quality, and purity.* Penicillin with vasoconstrictor is either a dry mixture of penicillin and ephedrine sulfate and one or more

suitable buffer substances with or without preservatives, or it is a packaged combination of one immediate container of penicillin and one immediate container of an aqueous solution of a vasoconstrictor that contains buffer substances and a preservative which prevents growth of microorganisms. The penicillin is of such quantity that when dissolved as directed the potency of such solution is not less than 500 units per milliliter after it has been kept for 7 days at a temperature of 15° C. (59° F.) Such solution is isotonic, has a pH of 6, ±0.2, and, if prepared from the dry mixture of penicillin with vasoconstrictor, contains 0.5 percent ephedrine sulfate. The penicillin used conforms to the requirements of § 146.24 (a) except the limitation on penicillin K content. The moisture content of the dry mixture of penicillin with vasoconstrictor is not more than 1.5 percent, and its content of viable microorganisms is not more than 25 per gram. The ephedrine sulfate and each buffer substance and preservative used, if their names are recognized in the U. S. P. or N. F., conform to the standards prescribed therefor by such official compendium.

(b) *Packaging.* The immediate container of the penicillin, the immediate container of the dry mixture of penicillin with vasoconstrictor, and the immediate container of the aqueous solution of vasoconstrictor shall be a tight container as defined by the U. S. P. The immediate container of the penicillin in the packaged combination and the immediate container of the dry mixture of penicillin with vasoconstrictor shall be so sealed that the contents cannot be used without destroying such seal, and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded.

(c) *Labeling.* Each package of penicillin with vasoconstrictor shall bear on its label or labeling, as hereinafter indicated, the following:

(1) On the outside wrapper or container and on the immediate container of the penicillin:

(i) The batch mark;

(ii) The number of units in such container; and

(iii) If it is a packaged combination, the statement "Expiration date \_\_\_\_\_," the blank being filled in with the date which is 18 months, or if it is crystalline penicillin 36 months, after the month during which the batch was certified. If it is the dry mixture of penicillin with vasoconstrictor, the statement "Expiration date \_\_\_\_\_," the blank being filled in with the date which is 12 months after the month during which the batch was certified.

(2) On the outside wrapper or container and on the immediate container of the aqueous solution of the vasoconstrictor in the packaged combination:

(i) A statement giving the method of dissolving the penicillin, and in case it is the dry mixture of penicillin with vaso-

constrictor a statement that distilled water U. S. P. should be used;

(ii) The potency per milliliter after the penicillin has been dissolved therein;

(iii) If it is the packaged combination and is not crystalline penicillin or if it is the dry mixture of penicillin with vasoconstrictor, the statement "Store in refrigerator not above 15° C. (59° F.)"

(iv) The statement "Warning—Not for injection," and unless it is intended solely for veterinary use and is conspicuously so labeled, a statement "To be administered only by a \_\_\_\_\_," the blank being filled in with the word "physician" or "dentist" or "veterinarian" or with any combination of two or all of these words, as the case may be; and

(v) The conditions under which the solution should be stored, including a reference to its instability when stored under other conditions, and a statement "The solution may be kept in a refrigerator for one week without significant loss of potency."

(3) On the outside wrapper or container, unless it is intended solely for veterinary use and is conspicuously so labeled:

(i) The statement "Caution: To be dispensed only by or on the prescription of a \_\_\_\_\_," the blank being filled in with the word "physician" or "dentist" or "veterinarian" or with any combination of two or all of these words, as the case may be; and

(ii) A reference specifically identifying a readily available medical publication containing directions and precautions (including contraindications and possible sensitization) adequate for the use of penicillin with vasoconstrictor; or a reference to a brochure or other printed matter containing such directions and precautions, and a statement that such brochure and printed matter will be sent on request.

(4) If intended solely for veterinary use, directions and precautions adequate for the use of such penicillin with vasoconstrictor, including:

(i) Clinical indications;

(ii) Dosage and administration;

(iii) Contraindications; and

(iv) Untoward effects that may accompany administration.

If two or more such immediate containers are in such package, the number of circulars or other labeling shall not be less than such containers.

(d) *Request for certification; samples.* (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch of penicillin with vasoconstrictor shall submit with his request a statement showing the batch mark, the number of packages thereof in each batch, the number of units in each immediate container thereof, and (unless it was previously submitted) the date on which the latest assay of the penicillin included in such batch was completed, the quantity of each ingredient used in making the batch of the dry mixture of penicillin with vasoconstrictor, the quantity of each ingredient used in making the solution of the vasoconstrictor, and a statement that such solution conforms to the requirements prescribed therefor by this section.

(2) Except as otherwise provided in subparagraph (4) of this paragraph, such person shall submit in connection with his request results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:—

(i) The penicillin included in the packaged combination and the penicillin used in making the batch of the dry mixture of penicillin with vasoconstrictor; potency, sterility, toxicity, pyrogens, moisture, pH, clarity, crystallinity, and heat stability of it is crystalline penicillin, and the penicillin G content if it is crystalline penicillin G;

(ii) The solution after the penicillin has been dissolved therein; potency.

(iii) The batch of the dry mixture of penicillin with vasoconstrictor; potency, micro-organism count, moisture content.

(3) Except as otherwise provided in subparagraph (4) of this paragraph, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(i) The penicillin for inclusion in the packaged combination of penicillin with vasoconstrictor; one immediate container for each 5,000 immediate containers in the batch, but in no case less than 20 immediate containers and not more than 100 immediate containers if it is not crystalline penicillin and not less than 40 immediate containers and not more than 100 immediate containers if it is crystalline penicillin, collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal;

(ii) The dry mixture of penicillin with vasoconstrictor; one immediate container for each 500 immediate containers in the batch, but in no case less than 20 immediate containers and not more than 100 immediate containers, collected by taking single immediate containers at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal;

(iii) The penicillin used in making the batch of the dry mixture of penicillin with vasoconstrictor; 5 packages, or in the case of crystalline penicillin 10 packages, each containing approximately equal portions of not less than 60 milligrams each, packaged in accordance with the requirements of § 146.24 (b)

(iv) In case of an initial request for certification of a batch of a dry mixture of penicillin with vasoconstrictor, each other substance used in making the batch; one package of each containing approximately 5 grams;

(v) In case of an initial request for certification of the packaged combination of penicillin with vasoconstrictor, or when any change is made in the composition of such solution; five packages of the solution included in the combination.

(4) No result referred to in subparagraph (2) (i) of this paragraph, and no samples referred to in subparagraph (3) (i) and (iii) of this paragraph are required if such result or sample has been previously submitted.

(e) *Fees.* The fee for the services rendered with respect to each batch of penicillin with vasoconstrictor under the regulations in this part shall be:

(1) \$1.00 for each immediate container submitted in accordance with paragraph (d) (3) (i) and (ii) of this section, or \$2.00 if no such sample is submitted; \$4.00 for each package submitted in accordance with paragraph (d) (3) (iii), (iv) and (v) of this section; and

(2) If the Commissioner considers that investigations, other than examination of such packages, are necessary to determine whether or not such batch complies with the requirements of § 146.3 for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fee is covered by an advance deposit maintained in accordance with § 146.8 (d)

9. § 146.34 is amended by substituting the words "tablets aluminum penicillin" for the words "tablets alum precipitated penicillin" wherever they appear.

10. Section 146.34 (a) is amended to read:

§ 146.34 *Tablets alum precipitated penicillin*—(a) *Standards of identity, strength, quality, and purity.* Tablets aluminum penicillin are tablets composed of aluminum penicillin, sodium benzoate, with or without one or more suitable and harmless diluents, binders, lubricants, colorings, and flavorings. The potency of each tablet is not less than 50,000 units, and if it is less than 100,000 units it is "unscored." Each tablet contains 0.3 gram of sodium benzoate. Its moisture content is not more than 2 percent. The aluminum penicillin used conforms to the requirements of § 146.42 (a) for aluminum penicillin except subparagraphs (2) and (3) thereof. Each other substance used in the preparation of aluminum penicillin tablets, if its name is recognized in the U. S. P. or N. F., conforms to the standards prescribed therefor by such official compendium.

11. Section 146.34 (c) (2) is amended by renumbering the subdivisions (i) and (ii) as (ii) and (iii), respectively, and is further amended by adding the following new subdivision:

(i) The statement "Store in refrigerator not above 15° C. (59° F.)" or "Store below 15° C. (59° F.)"

12. Section 146.34 (d) (2) (ii) is amended to read: "The aluminum penicillin used in making the batch; potency, moisture, pH, toxicity, and penicillin K content."

13. Section 146.34 (d) (3) (ii) is amended to read:

(ii) The aluminum penicillin used in making the batch; 6 packages, each containing approximately equal portions of not less than 300 milligrams each, packaged in accordance with the requirements of § 146.42 (b).

14. Part 146 is amended by adding the following new sections:

§ 146.42 *Aluminum penicillin (aluminum penicillin salt)*—(a) *Standards of identity, strength, quality, and purity.* Aluminum penicillin is the insoluble aluminum salt of a kind of penicillin or a mixture of two or more such salts, but the quantity of any salt of penicillin K therein is not more than 30 percent. Each such drug is so purified and dried that:

(1) Its potency is not less than 500 units per milligram;

(2) It is sterile;

(3) It is nonpyrogenic;

(4) It is nontoxic;

(5) Its moisture content is not more than 3 percent; and

(6) Its pH in saturated aqueous solution is not less than 3.5 and not more than 4.5.

(b) *Packaging.* In all cases the immediate containers shall be tight containers as defined by the U. S. P., shall be sterile at the time of filling and closing, shall be so sealed that the contents cannot be used without destroying the seal, and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused, which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded.

(c) *Labeling.* Each package of aluminum penicillin shall bear on its outside wrapper or container and the immediate container as hereinafter indicated, the following:

(1) The batch mark;

(2) The weight of the drug and the number of units in the immediate container;

(3) The statement "Expiration date \_\_\_\_\_" the blank being filled in with the date which is 12 months after the month during which the batch was certified;

(4) The statement "Store in refrigerator not above 15° C. (59° F.)", or "Store below 15° C. (59° F.)"; and

(5) The statement "For manufacturing use only."

(d) *Request for certification, check tests, and assays; samples.* (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch of aluminum penicillin shall submit with his request a statement showing the batch mark, the number of packages of each size in the batch, the weight of the drug and the number of units in each package, and (unless it was previously submitted) the date on which the latest assay of the drug comprising the batch was completed. Such request shall be accompanied or followed with results of the tests and assays made by him on the batch for potency, sterility, pyrogens, toxicity, moisture, pH, and the penicillin K content.

(2) Such person shall submit with his request a sample containing six approximately equal portions of not less than 300 milligrams each taken from different parts of such batch; each portion shall be packaged in a separate container and in accordance with the requirements of paragraph (b) of this section.

(3) In connection with contemplated requests for certification of batches of

another drug in the manufacture of which aluminum penicillin is to be used, the manufacturer of a batch which is to be so used may request the Commissioner to make check tests and assays on a sample of such batch taken as prescribed by subparagraph (2) of this paragraph. From the information required by subparagraph (1) of this paragraph may be omitted results of tests and assays not required for the batch when used in such other drug. The Commissioner shall report to such manufacturer results of each check test and assay as are so requested.

(e) *Fees.* The fee for the services rendered with respect to each batch under the regulations in this part shall be:

(1) \$4.00 for each immediate container in the sample submitted in accordance with paragraphs (d) (2) and (3) of this section; and

(2) If the Commissioner considers that investigations, other than the examination of such immediate containers, are necessary to determine whether or not such batch complies with the requirements of § 146.3 for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fee is covered by an advance deposit maintained in accordance with § 146.8 (d).

§ 146.43 *Aluminum penicillin in oil—*  
(a) *Standards of identity, strength, quality, and purity.* Aluminum penicillin in oil is a suspension of aluminum penicillin in a menstruum of refined peanut oil or sesame oil. Its potency is 300,000 units per milliliter. Its moisture content is not more than 1.5 percent. It is sterile. The aluminum penicillin used conforms to the requirements of § 146.42 (a).

The peanut oil or sesame oil used conforms to the standards prescribed therefor by the U. S. P.

(b) *Packaging.* The immediate container of aluminum penicillin in oil shall be of colorless, transparent glass, so closed as to be a tight container as defined by the U. S. P., shall be sterile at the time of filling and closing, shall be so sealed that its contents cannot be used without destroying such seal, and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable standards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded. The quantity of aluminum penicillin in oil in each such container shall be not less than 1 milliliter and not more than 20 milliliters, unless it is packaged for repacking. Unless it is packaged for repacking, each container shall be filled with a volume of aluminum penicillin in oil in excess of that designated, which excess shall be sufficient to permit the withdrawal and the administration of the volume indicated, whether administered in either single or multiple doses.

(c) *Labeling.* Each package of aluminum penicillin in oil shall bear on its label or labeling as hereinafter indicated, the following:

(1) On the outside label or container and the immediate container of the package:

(i) The batch mark;

(ii) The number of units per milliliter of the batch;

(iii) The statement "Expiration date \_\_\_\_\_," the blank being filled in with the date which is 12 months after the month during which the batch was certified;

(iv) The statements "For intramuscular use only" and "Shake well" and

(v) The statement "Store in refrigerator not above 15° C. (59° F.)" or "Store below 15° C. (59° F.)."

(2) On the circular or other labeling within or attached to the package, adequate directions for use and warnings as required by section 502 (f) of the act, including:

(i) Clinical indications;

(ii) Dosage and administration, including site of injection;

(iii) Contraindications; and

(iv) Untoward effects that may accompany administration, including sensitization.

(d) *Requests for certification; samples.* (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch of aluminum penicillin in oil shall submit with his request a statement showing the batch mark, the number of packages of each size in such batch, the batch mark and (unless it was previously submitted) the date on which the latest assay of the aluminum penicillin used in making such batch was completed, the number of units in each of such packages, the quantity of each ingredient used in making the batch, the date on which the latest assay of the drug comprising such batch was completed, and that the peanut oil or sesame oil used in making such batch conforms to the requirements prescribed therefor by this section.

(2) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request results of the tests and assays listed after each of the following, made by him on an accurately representative sample of:

(i) The batch; potency, sterility, moisture;

(ii) The aluminum penicillin used in making the batch; potency, sterility, toxicity, pyrogens, moisture, pH, penicillin K content.

(3) Except as otherwise provided by subparagraph (4) of this paragraph, such person shall submit in connection with his request, in the quantities hereinafter indicated, accurately representative samples of the following:

(i) The batch; one package for each 500 packages in the batch, but in no case less than 3 packages or more than 12 packages, collected by taking single packages at such intervals throughout the entire time of packaging the batch that the quantities packaged during the intervals are approximately equal;

(ii) The aluminum penicillin used in making the batch; 6 packages containing approximately equal portions of not less than 300 milligrams, each packaged in accordance with the requirements of § 146.42 (b),

(iii) In case of an initial request for certification, the peanut oil or sesame oil used in making the batch; one package of each containing approximately 250 grams.

(4) No result referred to in subparagraph (2) (ii) of this paragraph and no sample referred to in subparagraph (3) (ii) of this paragraph are required if such result or sample has been previously submitted.

(e) *Fees.* The fee for the services rendered with respect to each batch of aluminum penicillin in oil under the regulations in this part shall be:

(1) \$8.00 for each package submitted in accordance with paragraph (d) (3)

(i) \$4.00 for each package in the samples submitted in accordance with paragraph (d) (3) (ii) and (iii) of this section; and

(2) If the Commissioner considers that investigations, other than the examination of such packages, are necessary to determine whether or not such batch complies with the requirements of § 146.3 for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fee is covered by an advance deposit maintained in accordance with § 146.8 (d).

This order, which provides for the marketing of four new penicillin products and for deleting the maximum limit for packaging penicillin for dental use, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the penicillin industry will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and would be contrary to the public interest, and I so find, since it was drawn in collaboration with interested members of the affected industry, and since it would be against public interest to delay the marketing of these new penicillin products and to remove the maximum limit for packaging penicillin for dental use.

(52 Stat. 1040, as amended, 59 Stat. 463, 61 Stat. 11, 21 U. S. C., Sup. 357)

Dated: January 29, 1948.

[SEAL] OSCAR R. EWING,  
Administrator.

[F. R. Doc. 48-913; Filed, Jan. 30, 1948; 8:56 a. m.]

#### PART 141—TESTS AND METHODS OF ASSAY. FOR ANTIBIOTIC DRUGS

#### PART 146—CERTIFICATION OF BATCHES OF PENICILLIN- OR STREPTOMYCIN-CONTAINING DRUGS

#### MISCELLANEOUS AMENDMENTS

By virtue of the authority vested in the Federal Security Administrator by the provisions of section 507 of the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040, 1055, as amended by 59 Stat. 463 and 61 Stat. 11, 21 U. S. C., Sup. 357)

the regulations for tests and methods of assay of antibiotic drugs (12 F. R. 2215) and certification of batches of penicillin- or streptomycin-containing drugs (12 F. R. 2231) as amended, are hereby further amended as indicated below:

1. Part 141 is amended by adding the following new section:

§ 141.26 *Procaine penicillin*—(a) *Potency*. Proceed as directed in § 141.1.

(b) *Sterility*. Proceed as directed in § 141.2.

(c) *Pyrogens*. Proceed as directed in § 141.3.

(d) *Toxicity*. Proceed as directed in § 141.4 except inject 0.5 milliliter of a solution containing 2,000 units per milliliter.

(e) *Moisture*. Proceed as directed in § 141.5 (a).

(f) *pH*. Proceed as directed in § 141.5 (b) utilizing a saturated aqueous solution.

(g) *Microscopical test for crystallinity*. Proceed as directed in § 141.5 (d).

(h) *Penicillin G content*. Proceed as directed in § 141.5 (f) using the following formula for calculating the percent of procaine penicillin G:

$$\text{Percent of procaine penicillin G} = \frac{\text{N-ethyl piperidine penicillin precipitate} \times 263.1}{\text{Weight of sample in milligrams}}$$

and in lieu of the first four sentences in § 141.5 (f) (2) proceed as follows:

Accurately weigh approximately 100 milligrams of the sample to be tested in a glass test tube or glass vial of approximately 10-milliliter capacity. Add 2 milliliters of water and cool to 0° to 5° C. Add 2 milliliters of the amyl acetate solution and 0.5 milliliter of the phosphoric acid solution, stopper and shake vigorously for approximately 15 seconds. Add a second 0.5-milliliter portion of the phosphoric acid solution and shake vigorously again. Centrifuge to obtain a clear separation of the two layers (approximately 20 seconds). If any procaine penicillin remains undissolved, add a third portion of 0.5 milliliter of the phosphoric acid solution and repeat the shaking and centrifugation.

(i) *Penicillin K content*. Proceed as directed in § 141.5 (g).

2. Part 146 is amended by adding the following new section:

§ 146.44 *Procaine penicillin (penicillin procaine salt) procaine penicillin G (penicillin G-procaine salt)*—(a) *Standards of identity, strength, quality, and purity*. Procaine penicillin is the crystalline procaine salt of a kind of penicillin, or a mixture of two or more such salts prepared from procaine hydrochloride U. S. P. and penicillin, but the quantity of any salt of penicillin K therein is not more than 30 percent; procaine penicillin G is procaine penicillin which contains not less than 85 percent by weight of the procaine salt of penicillin G. Each such drug is so purified and dried that:

(1) Its potency is not less than 900 units per milligram;

(2) It is sterile;

(3) It is nonpyrogenic;

(4) It is nontoxic;

(5) Its moisture content is not more than 1.5 percent; and

(6) Its pH in saturated aqueous solution is not less than 5 and not more than 7.5.

(b) *Packaging*. In all cases the immediate containers shall be tight containers as defined by the U. S. P., shall be sterile at the time of filling and closing, shall be so sealed that the contents cannot be used without destroying the seal, and shall be of such composition as will not cause any change in the strength, quality, or purity of the contents beyond any limit therefor in applicable stand-

ards, except that minor changes so caused which are normal and unavoidable in good packaging, storage, and distribution practice shall be disregarded.

(c) *Labeling*. Each package of procaine penicillin shall bear on its outside wrapper or container and the immediate container as hereinafter indicated, the following:

(1) The batch mark;

(2) The weight of the drug and the number of units in the immediate containers;

(3) The statement "Expiration date \_\_\_\_\_," the blank being filled in with the date which is 12 months after the month during which the batch was certified; and

(4) The statement "For manufacturing use only."

(d) *Requests for certification, check tests and assays; samples*. (1) In addition to complying with the requirements of § 146.2, a person who requests certification of a batch of procaine penicillin shall submit with his request a statement showing the batch mark, the number of packages of each size in the batch, the weight of the drug and the number of units in each package, and (unless it was previously submitted) the date on which the latest assay of the drug comprising the batch was completed. Such request shall be accompanied or followed by the results of tests and assays made by him on the batch for potency, sterility, toxicity, pyrogens, moisture, pH, crystallinity, penicillin K content (unless it is procaine penicillin G), and the penicillin G content if it is procaine penicillin G.

(2) Such person shall submit with his request a sample containing 10 approximately equal portions of at least 300 milligrams each taken from different parts of such batch. Each such portion shall be packaged in a separate container and in accordance with the requirements of paragraph (b) of this section.

(3) In connection with contemplated requests for certification of batches of another drug in the manufacture of which procaine penicillin is to be used, the manufacturer of a batch which is to be so used may request the Commissioner to make check tests and assays on a sample of such batch taken as prescribed by subparagraph (2) of this paragraph. From the information re-

quired by subparagraph (1) of this paragraph may be omitted results of tests and assays not required for the batch when used in such other drug. The Commissioner shall report to each manufacturer results of such check tests and assays as are so requested.

(e) *Fees*. The fee for the services rendered with respect to each batch under the regulations in this part shall be:

(1) \$4.00 for each immediate container in the sample submitted in accordance with paragraph (d) (2) and (3) of this section; and

(2) If the Commissioner considers that investigations other than the examination of such immediate container are necessary to determine whether or not such batch complies with the requirements of § 146.3 for the issuance of a certificate, the cost of such investigations.

The fee prescribed by subparagraph (1) of this paragraph shall accompany the request for certification unless such fee is covered by an advance deposit maintained in accordance with § 146.8 (d).

This order, which provides for the marketing of a new penicillin product, procaine penicillin, shall become effective upon publication in the FEDERAL REGISTER, since both the public and the penicillin industry will benefit by the earliest effective date, and I so find.

Notice and public procedure are not necessary prerequisites to the promulgation of this order, and would be contrary to the public interest, and I so find, since it was drawn in collaboration with interested members of the affected industry, and since it would be against public interest to delay the marketing of this new penicillin product.

(52 Stat. 1040, as amended, 59 Stat. 463, 61 Stat. 11, 21 U. S. C., Sup. 357)

Dated: January 29, 1948.

[SEAL] OSCAR R. EWING,  
Administrator

[F. R. Doc. 48-912; Filed, Jan. 30, 1948; 8:56 a. m.]

## TITLE 22—FOREIGN RELATIONS

### Chapter I—Department of State

[Departmental Reg. 108.64]

#### PART 61—VISAS: DOCUMENTARY REQUIREMENTS FOR ALIENS ENTERING THE UNITED STATES

##### PASSPORT VISAS, REVALIDATION, PERIOD OF VALIDITY

The following amendments to Part 61, Chapter I, Title 22, Code of Federal Regulations (Departmental Regulations 108.12, 108.34, and 108.52; 11 F. R. 8904, 14611, 12 F. R. 6501), are hereby prescribed:

1. Paragraph (a) of § 61.110 is amended to read as follows:

§ 61.110 *Officers authorized to grant or issue nonimmigrant documentation*. (a) A consular officer, as defined in § 61.101 (h), may grant a passport visa, a revalidated passport visa, a limited-entry certificate, or a transit certificate,

or may issue a nonresident alien's border-crossing identification card, to a bona fide nonimmigrant who is found to be qualified for such a document under the regulations in this part.

**CROSS REFERENCE:** For issuance of nonresident aliens' border-crossing identification cards by officers of the Immigration and Naturalization Service, see 8 CFR 166.11 et seq.

2. Section 61.112 is amended by adding paragraph (e) as follows:

§ 61.112 *Applications for passport visas, limited-entry certificates, and transit visas or certificates.*

(e) A consular officer, as defined in § 61.101 (h) may revalidate a nonimmigrant visa which was issued under section 3 (2) of the act and which was issued at the same office and actually used for entry into the United States: *Provided*, That (1) such visa is about to expire or expired less than three months before the application for revalidation is made, (2) the consular officer is satisfied that the applicant has maintained and will continue to maintain the nonimmigrant status, and (3) there is no adverse information available indicating that the visa should be withheld. In such a case, the formal application on Forms 257a to 257d, inclusive, prescribed in paragraph (a) of this section, need not be required by the consular officer, and he may in his discretion waive the personal appearance of the applicant. Any such revalidation of the nonimmigrant visa shall be accomplished in the same manner as is prescribed in § 61.114 for the issuance of a passport visa except that, in addition, the words "Revalidated Visa" shall be stamped or written above the visa. A record should be made by stamping a copy of the revalidated visa on a blank sheet of paper. The record should contain a notation regarding the number and date of issuance of the original visa and the serial number, if any, of the set of Forms 257 used for the original application and should be filed in the current nonimmigrant visa file. A notation regarding the revalidation should also be made on the original visa application. The same fee, if any, as is prescribed for the issuance of nonimmigrant visas should be charged for a revalidation.

3. Paragraphs (a) and (b) of § 61.116 are amended to read as follows:

§ 61.116 *Validity of passport visa.* (a) A passport visa, or a revalidated passport visa, unless otherwise specified therein, is valid for 12 months and may be used for any number of entries into the United States within the period of validity, provided the nonimmigrant status is maintained by the holder. However, in the cases of nationals of countries which do not require visas of citizens of the United States entering their territories temporarily for business or pleasure, or which grant temporary visitors visas to citizens of the United States valid for two years, the period of validity of the visa should be 24 months instead of 12 months, provided the consul has been authorized by the Secretary of State, upon the basis of a reciprocal arrangement, to issue visas valid for that period to nationals of the

countries concerned. The period of validity of a passport visa relates only to the period within which it may be used for application for admission at a port of entry and not to the period of the alien's stay in the United States. The latter period will be determined by the immigration authorities, in their discretion, if the alien should be admitted into the United States.

(b) The attention of applicants whose passports will expire before the visa for which they are applying would ordinarily expire should be called to the fact that, although a passport visa is valid for either 12 or 24 months if the passport on which it is placed remains valid for such period, such visa becomes invalid if the passport expires at an earlier date. Whether an extension of the period of validity of the passport should be obtained in such cases in order to make the visa valid during the whole possible period of validity of the passport, or whether the bearer should obtain a new passport on which he will have no visa, must, of course, be decided by the applicant concerned. A visa cannot be transferred from one passport to another.

4. Section 61.386 *Exemptions from registration and fingerprinting*, is amended by placing the following cross-reference immediately following the section:

**CROSS REFERENCE:** For provisions regarding registration and fingerprinting of recipients of revalidated nonimmigrant visas, see § 61.398 (a).

5. Paragraph (a) of § 61.398, *Repeated registration and fingerprinting*, is amended by adding the following sentence: "When a nonimmigrant visa issued under section 3 (2) of the act is revalidated in accordance with the provisions of § 61.112 (e) the recipient of such revalidated visa having been registered and fingerprinted in connection with his original application, no further registration or fingerprinting shall be required in connection with the revalidation."

These regulations shall become effective on the date of their publication in the FEDERAL REGISTER. The provisions of section 4 of the Administrative Procedure Act (60 Stat. 238; 5 U. S. C., Sup., 1003) relative to proposed rulemaking and delayed effective date are inapplicable because these regulations involve foreign-affairs functions.

(Secs. 15, 24, 43 Stat. 162, 166, as amended, secs. 30, 37 (a) 54 Stat. 673, 675; 8 U. S. C. and Sup., 215, 222, 451, 458)

Approved: January 27, 1948.

[SEAL] G. C. MARSHALL,  
Secretary of State.

Recommended, so far as the provisions of the Immigration Act of 1924 and the Alien Registration Act, 1940, are concerned, by

TOM C. CLARK,  
Attorney General.

DECEMBER 4, 1947.

[F. R. Doc. 48-891; Filed, Jan. 30, 1948; 9:00 a. m.]

## TITLE 24—HOUSING CREDIT

### Chapter VIII—Office of Housing Expediter

#### PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947

##### CONTROLLED HOUSING RENT REGULATION

Amendment 17 to the Controlled Housing Rent Regulation.<sup>1</sup> The Controlled Housing Rent Regulation (§ 825.1) is amended in the following respect:

1. The following unnumbered paragraph is added to the unnumbered paragraphs of section 5:

In all cases under paragraph (a) of this section the adjustment in the maximum rent shall be effective as of the date of the filing of the landlord's petition.

This amendment shall become effective January 30, 1948.

Issued this 30th day of January 1948.

TIGHE F. WOODS,  
Housing Expediter

[F. R. Doc. 48-958; Filed, Jan. 30, 1948; 8:55 a. m.]

#### PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947

##### CONTROLLED HOUSING RENT REGULATION FOR NEW YORK CITY DEFENSE-RENTAL AREA

Amendment 4 to the Controlled Housing Rent Regulation for New York City Defense-Rental Area.<sup>2</sup> The Controlled Housing Rent Regulation for New York City Defense-Rental Area (§ 825.2) is amended in the following respect:

1. The following unnumbered paragraph is added to the unnumbered paragraphs of section 5:

In all cases under paragraph (a) of this section the adjustment in the maximum rent shall be effective as of the date of the filing of the landlord's petition.

This amendment shall become effective January 30, 1948.

Issued this 30th day of January 1948.

TIGHE E. WOODS,  
Housing Expediter

[F. R. Doc. 48-959; Filed, Jan. 30, 1948; 9:55 a. m.]

#### PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947

##### CONTROLLED HOUSING RENT REGULATION FOR MIAMI DEFENSE-RENTAL AREA

Amendment 4 to the Controlled Housing Rent Regulation for Miami Defense-Rental Area.<sup>3</sup> The Controlled Housing Rent Regulation for Miami Defense-Rental Area (§ 825.3) is amended in the following respect:

<sup>1</sup> 12 F. R. 4331, 5421, 5454, 5637, 6027, 6637, 6923, 7111, 7639, 7825, 7939, 8650; 13 F. R. 6, 62, 180, 216, 234, 322.

<sup>2</sup> 12 F. R. 4235, 5422, 5455, 5636; 13 F. R. 231.

<sup>3</sup> 12 F. R. 4374, 5422, 5455, 5636; 13 F. R. 231.

## RULES AND REGULATIONS

1. The following unnumbered paragraph is added to the unnumbered paragraphs of section 5:

In all cases under paragraph (a) of this section the adjustment in the maximum rent shall be effective as of the date of the filing of the landlord's petition.

This amendment shall become effective January 30, 1948.

Issued this 30th day of January 1948.

TIGHE E. WOODS,  
*Housing Expediter.*

[F. R. Doc. 48-958; Filed, Jan. 30, 1948;  
9:55 a. m.]

#### PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947

##### CONTROLLED HOUSING RENT REGULATION FOR ATLANTIC COUNTY DEFENSE-RENTAL AREA

Amendment 4 to the Controlled Housing Rent Regulation for Atlantic County Defense-Rental Area.<sup>1</sup> The Controlled Housing Rent Regulation for Atlantic County Defense-Rental Area (§ 825.4) is amended in the following respect:

1. The following unnumbered paragraph is added to the unnumbered paragraphs of section 5:

In all cases under paragraph (a) of this section the adjustment in the maximum rent shall be effective as of the date of the filing of the landlord's petition.

This amendment shall become effective January 30, 1948.

Issued this 30th day of January 1948.

TIGHE E. WOODS,  
*Housing Expediter.*

[F. R. Doc. 48-962; Filed, Jan. 30, 1948;  
9:56 a. m.]

#### PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947

##### RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS

Amendment 17 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments.<sup>2</sup> The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments (§ 825.5) is amended in the following respect:

1. The following unnumbered paragraph is added to the unnumbered paragraphs of section 5:

In all cases under paragraph (a) of this section the adjustment in the maximum rent shall be effective as of the date of the filing of the landlord's petition.

This amendment shall become effective January 30, 1948.

<sup>1</sup> 12 F. R. 4381, 5422, 5456, 5697; 13 F. R. 231.

<sup>2</sup> 12 F. R. 4302, 5423, 5457, 5699, 6027, 6686, 6923, 7111, 7630, 7825, 7998, 8660; 13 F. R. 6, 62, 181, 216, 294, 321.

Issued this 30th day of January 1948.

TIGHE E. WOODS,  
*Housing Expediter.*

[F. R. Doc. 48-960; Filed, Jan. 30, 1948;  
9:55 a. m.]

#### PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947

##### RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS IN NEW YORK CITY DEFENSE-RENTAL AREA

Amendment 4 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments in New York City Defense-Rental Area.<sup>1</sup> The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments in New York City Defense-Rental Area (§ 825.6) is amended in the following respect:

1. The following unnumbered paragraph is added to the unnumbered paragraphs of section 5:

In all cases under paragraph (a) of this section the adjustment in the maximum rent shall be effective as of the date of the filing of the landlord's petition.

This amendment shall become effective January 30, 1948.

Issued this 30th day of January 1948.

TIGHE E. WOODS,  
*Housing Expediter.*

[F. R. Doc. 48-957; Filed, Jan. 30, 1948;  
9:55 a. m.]

#### PART 825—RENT REGULATIONS UNDER THE HOUSING AND RENT ACT OF 1947

##### RENT REGULATION FOR CONTROLLED ROOMS IN ROOMING HOUSES AND OTHER ESTABLISHMENTS IN MIAMI DEFENSE-RENTAL AREA

Amendment 4 to the Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments in Miami Defense-Rental Area.<sup>2</sup> The Rent Regulation for Controlled Rooms in Rooming Houses and Other Establishments in Miami Defense-Rental Area (§ 825.7) is amended in the following respect:

1. The following unnumbered paragraph is added to the unnumbered paragraphs of section 5:

In all cases under paragraph (a) of this section the adjustment in the maximum rent shall be effective as of the date of the filing of the landlord's petition.

This amendment shall become effective January 30, 1948.

Issued this 30th day of January 1948.

TIGHE E. WOODS,  
*Housing Expediter.*

[F. R. Doc. 48-961; Filed, Jan. 30, 1948;  
9:56 a. m.]

<sup>1</sup> 12 F. R. 4318, 5423, 5458, 5700; 13 F. R. 231.

<sup>2</sup> 12 F. R. 4325, 5423, 5459, 5699; 13 F. R. 231.

## TITLE 32—NATIONAL DEFENSE

### Chapter IX—Bureau of Foreign and Domestic Commerce, Office of Materials Distribution, Department of Commerce

[Priorities Regulation 16, Revocation]

#### PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

Section 944.37 *Priorities Regulation 16* is hereby revoked. It is superseded by Allocations Regulation 3 which is being issued at the same time as this revocation.

Issued this 30th day of January 1948.

OFFICE OF MATERIALS  
DISTRIBUTION,  
By RAYMOND S. HOOVER,  
*Issuance Officer.*

[F. R. Doc. 48-996; Filed, Jan. 30, 1948;  
11:41 a. m.]

[Priorities Reg. 16, Revocation of Direction 1]

#### PART 944—REGULATIONS APPLICABLE TO THE OPERATION OF THE PRIORITIES SYSTEM

Priorities Regulation 16, Direction 1, is hereby revoked. It is superseded by Allocations Regulation 3 which is being issued at the same time as this revocation.

Issued this 30th day of January 1948.

OFFICE OF MATERIALS  
DISTRIBUTION,  
By RAYMOND S. HOOVER,  
*Issuance Officer.*

[F. R. Doc. 48-997; Filed, Jan. 30, 1948;  
11:41 a. m.]

[Allocations Regulation 2, Direction 2, Amdt. 1]

#### PART 945—REGULATIONS APPLICABLE TO THE OPERATION OF THE ALLOCATIONS AND EXPORT PRIORITIES SYSTEM

Allocations Regulation 2, Direction 2, is amended by changing "Civilian Production Administration" in paragraph (c) to "Office of Materials Distribution"

Issued this 30th day of January 1948.

OFFICE OF MATERIALS  
DISTRIBUTION,  
By RAYMOND S. HOOVER,  
*Issuance Officer.*

[F. R. Doc. 48-998; Filed, Jan. 30, 1948;  
11:41 a. m.]

[Allocations Reg. 1, as Amended Jan. 30, 1948]

#### PART 945—REGULATIONS APPLICABLE TO THE OPERATION OF THE ALLOCATIONS AND EXPORT PRIORITIES SYSTEM

##### BASIC RULES

The fulfillment of requirements for the defense of the United States has created shortages in the supplies of certain materials and facilities for defense, for private

account, and for export; and the following regulation is deemed necessary and appropriate in the public interest and to promote the national defense.

#### PURPOSE, SCOPE, DEFINITIONS

Sec. 945.1 Purpose and scope of this regulation; definitions.

#### USE OF CERTIFICATIONS

945.2 Certifications on purchase orders and other documents.

#### EFFECT OF OMD ORDER ACTIONS

945.3 Effect of other regulations and orders.  
945.4 Effect of revocation of orders and regulations.

#### GENERAL RESTRICTIONS ON MATERIALS

945.5 Use or disposition of material acquired with allocations assistance.  
945.6 Intra-company deliveries.

#### SCOPE OF OMD ORDER ACTIONS

945.7 Scope of regulations and orders.

#### "EXCULPATORY" PROVISION

945.8 Defense against claims for damages.

#### GENERAL INVENTORY RESTRICTIONS

945.9 Inventory restrictions.

#### GENERAL DELIVERY RESTRICTIONS

945.10 Delivery for unlawful purposes prohibited.

#### RECORDS AND REPORTS

945.11 Records.  
945.12 Audit and inspection.  
945.13 Reports.

#### VIOLATIONS

945.14 Violations.

#### APPEALS

945.15 Appeals for relief in exceptional cases.

#### NOTIFYING CUSTOMERS OF RESTRICTIONS

945.16 Notification of customers.

#### TRANSFERS OF QUOTAS, ETC.

945.17 Transfers of quotas; transfers of a business as a going concern.

#### GENERAL RESTRICTIONS ON USE OF AUTHORIZATIONS

945.18 Quantities and kinds of materials or services obtainable with allocations assistance.

#### PURPOSE, SCOPE, AND DEFINITIONS

§ 945.1 *Purpose and scope of this regulation; definitions.* This regulation states the basic rules of the Office of Materials Distribution, Department of Commerce, which apply to business transactions affected by its regulations or orders, unless the transactions are covered by more specific OMD regulations or orders which are inconsistent with this regulation.

It continues in effect certain of the general rules previously contained in CPA Priorities Regulations 1, 3, 7, 7A and 8. Those regulations were among the regulations and orders adopted by the Housing Expediter by Housing Expediter Priorities Order 5 and transferred to him by the Civilian Production Administration, effective April 1, 1947.<sup>1</sup>

<sup>1</sup> The regulations transferred to the Office of the Housing Expediter became inoperative after Dec. 31, 1947.

OMD, as successor to CPA, is continuing in simplified form only those rules deemed necessary to the administration of its functions.

The following definitions apply for purposes of this regulation and any other regulation or order of the OMD unless otherwise indicated.

(a) "Person" means any individual, partnership, association, business trust, corporation, governmental corporation or agency, or any organized group of persons, whether incorporated or not.

(b) "Material" means any commodity, equipment, accessory, part, assembly or product of any kind.

(c) "Allocations assistance" means any authorization by the OMD under a regulation or other document issued by it, to obtain materials or facilities. The term includes but is not limited to authorizations for the use of export preference certificates on orders entitled to priority for export purposes, as well as certificates required to obtain materials but not entitled to priority.

(d) "OMD" means the Office of Materials Distribution, Department of Commerce, and where appropriate, its predecessors, the Civilian Production Administration (Office of Temporary Controls) and the War Production Board.

#### USE OF CERTIFICATIONS

§ 945.2 *Certifications on purchase orders and other documents—(a) How to use a certificate on a purchase order.* When a person uses a certificate required or permitted under any OMD order, regulation or direction, he must place it on the purchase or delivery order which is being certified, or on a separate piece of paper either attached to the purchase order or clearly identifying it. A signature on the purchase order shall apply to the certificate on an attached or unattached piece of paper only where the words above the signature clearly make it include the certificate.

The certificate must be verified by the signature of the person placing the order, or of a responsible individual who is duly authorized to sign for that purpose. The signature must be either by hand or in the form of a rubber stamp or other facsimile reproduction of a handwritten signature; however, if a facsimile signature is used, the individual who uses it must be duly authorized in writing to use it by the person whose signature it is, and a written record of the authorization must be kept.

When a purchase order is placed by telegram and the certificate is used, the certificate must be set out in full in the telegram. It will be sufficient if the file copy of the outgoing telegram is signed in the manner required for certification by this regulation.

(b) *Signature on other documents.* The above rules for signing certificates on purchase orders also apply to the signature on reports, applications for authorizations to use a certificate, and other documents that are required to be filed under orders and regulations of the OMD.

(c) *Responsibility for truth of certification.* The person who places the certified order or makes the application, report or other document, the individual whose signature is used, and the individual who approves the use of the signature shall each be considered to be making a representation to the OMD that the statements contained in the certificate or other document are true to the best of his knowledge and belief.

The person receiving the certification and other information required to be included with it shall be entitled to rely on it as a representation of the buyer unless he knows or has reason to know that it is false.

#### EFFECT OF OMD ORDER ACTIONS

§ 945.3 *Effect of other regulations and orders.* A limited number of materials are subject to control under orders of the OMD, usually referred to as conservation or limitation orders, directions and supplements as published in the Federal Register, and in some instances allocations are made under them. Also, in exceptional cases, the OMD may issue specific directions by letter or telegram to named persons for the delivery of those or other materials or the use of facilities. Such published rules, specific allocations made under them, and specific directions for the delivery of materials or the use of facilities must be complied with regardless of export preference certificates or ratings, unless otherwise specified.

§ 945.4 *Effect of revocation of orders and regulations.* (a) When an order or regulation of the OMD is revoked, all published amendments, schedules, appendices, and directions to that order or regulation are revoked, unless otherwise stated in the instrument revoking the order or regulation.

(b) Whenever an order or regulation of the OMD is revoked, all directions, authorizations, allocations, production or delivery schedules and other instruments addressed to named persons pursuant to that order or regulation are revoked, unless otherwise stated in the instrument of revocation.

(c) "Suspension orders" and "consent orders" issued on the basis of a violation of orders and regulations of the OMD remain in effect after revocation of such orders and regulations, unless otherwise provided. If you are subject to a suspension order or consent order which you think should be lifted or modified because of the lifting of the restriction on which the violation was based, you may address a request for relief to the Compliance Officer, Office of Materials Distribution, Department of Commerce, Washington 25, D. C.

#### GENERAL RESTRICTIONS ON MATERIALS

§ 945.5 *Use or disposition of material acquired with allocations assistance.* (a) Any person who gets material with allocations assistance must, if possible, use or dispose of it (or of the product into which it has been incorporated) for the purpose for which the assistance was given. This restriction applies to material obtained by means of a certificate,

allocation, specific direction, or any other action of the OMD. Physical segregation is not required as long as the restrictions applicable to any specific lot of material or product are observed with respect to an equivalent amount of the same material or product. The above restriction does not apply in the following two cases, but the rules on further use or disposition in paragraph (b) below must be observed:

(1) When a material, or a product into which it has been incorporated, can no longer be used for the purpose for which the assistance was given (for example, when the assistance was given to fill a particular contract or purchase order and the material or product does not meet the customer's specifications or the contract or order is canceled) (2) When the material was obtained by means of any order, regulation, allocation, specific direction or other action of the OMD which has been revoked or cancelled, unless otherwise stated in the instrument of revocation or in any other action of the OMD.

(b) The holder of a material or product subject to paragraph (a) (1) or (2) above may sell it as long as he complies with all requirements of other applicable sections of this regulation and of other orders and regulations of the OMD, or he may use it himself in any manner or for any purpose as long as he complies with such requirements. If the intended use is prohibited or restricted, he must appeal or otherwise apply for permission under the applicable order or regulation.

§ 945.6 *Intra-company deliveries.* When any rule, regulation or order of the OMD prohibits or restricts deliveries of any material by any person, such prohibition or restriction shall, in the absence of a contrary direction, apply not only to deliveries to other persons, including affiliates and subsidiaries, but also to deliveries from one branch, division or section of a single enterprise to another branch, division or section of the same or any other enterprise under common ownership or control.

#### SCOPE OF OMD ORDER ACTIONS

§ 945.7 *Scope of regulations and orders.* All regulations and orders of the OMD (including directions, directives and other instructions) apply to all subsequent transactions even though they are covered by previous contracts. Regulations and orders apply to transactions in the territories or insular possessions of the United States unless the regulation or order specifically states that it is limited to the continental United States or to the 48 states and the District of Columbia. However, restrictions of OMD orders or regulations on the use of material or on the amount of inventory shall not apply when the material is used or the inventory is held directly by the Army or Navy outside the 48 states and the District of Columbia, unless otherwise specifically provided. Exports and deliveries of material to be exported may be made regardless of any OMD order or regulation restricting inventories of material or uses thereof in manufacture or otherwise, or requiring certificates with re-

spect to such inventories or uses, insofar as such inventories are maintained or such uses occur in the country to which such material is to be exported, but shall be subject to such restrictions with respect to inventories maintained or uses occurring within the United States prior to export.

#### "EXCULPATORY" PROVISION

§ 945.8 *Defense against claims for damages.* No persons shall be held liable for damages or penalties for any default under any contract or order which shall result directly or indirectly from compliance with any rule, regulation or order of the OMD, notwithstanding that any such rule, regulation or order shall thereafter be declared by judicial or other competent authority to be invalid.

#### GENERAL INVENTORY RESTRICTIONS

§ 945.9 *Inventory restrictions.* No person may deliver or receive into inventory more of any material than is permitted under applicable OMD orders.

#### GENERAL DELIVERY RESTRICTIONS

§ 945.10 *Delivery for unlawful purposes prohibited.* No person shall deliver any material which he knows or has reason to believe will be accepted, redelivered, held or used in violation of any order or regulation of the OMD.

#### RECORDS AND REPORTS

§ 945.11 *Records.* Each person participating in any transaction to which any rule, regulation or order of the OMD applies shall keep and preserve for at least two years accurate and complete records of the details of each such transaction and of his inventories of the material involved. Such records shall include the dates of all contracts or purchase orders accepted, the delivery dates specified in such contracts or purchase orders, and in any certificates accompanying them, the dates of actual deliveries thereunder, description of the material covered by such contracts or purchase orders, description of deliveries by classes, types, quantities, weights and values, the parties involved in each transaction, the certificates, if any, assigned to deliveries under such contracts or purchase orders, details of certified orders (or other orders required by the OMD to be filled) either accepted or offered and rejected, and other pertinent information. Records kept by any person pursuant to this section shall be kept either separately from the other records of such person and chronologically according to daily deliveries by such person, or in such form that such a separate chronological record can be promptly compiled therefrom; except that this section does not require the records kept under it to be kept separately from those which may have been required under regulations or other rules of the Housing Expediter. Whenever a regulation or order requires a person to restrict his operations in proportion to his operations in a base period (for example, an order may forbid him to use more of a certain kind of material than he used in the fourth quarter of

1942) he must determine, as accurately as is reasonably possible, his base period operations and preserve a written record of any figures and work sheets showing how he made his calculations for inspection by OMD officials as long as the regulation or order remains in force and for two years after that. Whenever a person is restricted as to the quantity of material he may use in production or the amount he may produce, under quota restrictions, limitation orders, authorized production schedules, special directions or similar provisions he must keep reasonably adequate records of the material consumed and of production to show whether he is complying with the restrictions. This record-keeping requirement has been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

§ 945.12 *Audit and inspection.* All records required to be kept by this regulation or by any rule, regulation or order of the Civilian Production Administration shall, upon request, be submitted to audit and inspection by its duly authorized representatives.

§ 945.13 *Reports.* (a) Every person shall execute and file with the OMD such reports and questionnaires as it shall from time to time require, subject to the approval of the Bureau of the Budget pursuant to the Federal Reports Act of 1942.

(b) *Reports under OMD orders and regulations.* (1) If a published regulation or order of the OMD requires the filing of a report by a specified class of persons you must file the report in accordance with any applicable instructions if you belong to that class. The instructions may be in the regulation or order itself, or on a form or separate instruction sheet.

(2) When a published regulation or order requiring you to file any reports is revoked, you do not need to file any more reports due after that date unless they are required by another published regulation or order or unless you are notified to continue to file them in accordance with the rules stated in paragraph (c) below. This does not, however, excuse you from filing any reports due before the regulation or order was revoked.

(c) *Reports not specified in an order or regulation.* The OMD may need information which is not required under a specific regulation or order. In such cases you must file reports when you receive or have received a written notice to do so in one of the following ways:

(1) A letter or other written instrument specifically addressed to you issued in the name of the Office of Materials Distribution, countersigned or attested by the Issuance Officer, or in accordance with OMD Regulation 1 (§ 903.02), or

(2) A report form or instruction sheet with an official form number in the "OMD" series bearing your name or enclosed in an envelope specifically addressed to you.

Approval of the Bureau of the Budget will be indicated on the notice or on a report form or instruction sheet referred to in the notice.

## VIOLATIONS

§ 945.14 *Violations.* Any person who violates any provision of this regulation or any other rule, regulation or order of the OMD, or who, by any statement or omission, wilfully falsifies any records which he is required to keep, or who otherwise wilfully furnishes false or misleading information to the OMD, and any person who obtains a delivery, an allocation of material or facilities, or an authorization to use a certificate by means of a material and wilful, false or misleading statement, may be prohibited by the OMD from making or obtaining further deliveries of material or using facilities under allocation control and may be deprived of further allocations assistance. The OMD may also take any other action deemed appropriate, including the making of a recommendation for prosecution under section 35 (A) of the Criminal Code (18 U. S. C. sec. 80) or under other applicable statutes.

## APPEALS

§ 945.15 *Appeals for relief in exceptional cases.* Any person who considers that compliance by himself or another with a rule or regulation or order of the OMD would work an exceptional and unreasonable hardship upon him which is not suffered generally by others in the same industry or activity or would result in improper discrimination against him may appeal for relief. (Allocations Regulation 3 explains what such a person may do if he is dissatisfied with the decision on his initial appeal for relief.)

## NOTIFYING CUSTOMERS OF RESTRICTIONS

§ 945.16 *Notification of customers.* Any person who is prohibited from or restricted in making deliveries of any material by the provisions of any rule, regulation or order of the OMD shall, as soon as practicable, notify each of his regular customers of the requirements of such rule, regulation or order, but the failure to give notice shall not excuse any customer from the obligation of complying with any requirements applicable to him.

## TRANSFERS OF QUOTAS, ETC.

§ 945.17 *Transfers of quotas; transfers of a business as a going concern.* (a) This section explains when quotas and other rights under the allocations system may be transferred from one person to another and states the rules governing transfer of a business as a going concern.

(b) *Specific provisions in orders or regulations govern.* This regulation does not apply in any case where an applicable order or regulation provides a different rule.

(c) *What is meant by "quota"* As used in this regulation "quota" means a quantitative limit which is placed on the production or delivery of items, or on the acquisition or use of material, by an order or regulation of the OMD. Most quotas are in the form of a specified percentage of production or use during a previous base period or in the form of

a specified number of items which may be produced.

(d) *Quota applies to actual manufacturer.* Where a manufacturer does not sell his product in his own name, but makes it for another person under whose name it is sold, and an order of the OMD imposes a quota on manufacturers of the product, that quota applies to the person who actually makes the product rather than to the one under whose name it is sold.

(e) *Distribution of quota where quota holder has several establishments.* Where the holder of a quota has several establishments, he may distribute his quota among them, and change the distribution in any way he wishes unless the quota was acquired on a transfer of a going business as explained in paragraph (h) (1) below.

(f) *Transfer of quotas forbidden in most cases.* No quota may be transferred from one person to another under any circumstances, except in connection with the transfer of a business as a going concern as explained in paragraph (h) (1) below or with the express permission of the OMD. Permission to transfer quotas may be expressly given in an order or regulation or on appeal as explained in paragraph (i) below.

(g) *Transfers of specific authorizations forbidden.* No person may transfer to another any right granted by specific authorization except where this is part of a transfer of a going business as explained in paragraph (h) (1) below.

(h) *Transfer of business as a going concern.* (1) Whenever an entire business is transferred as a going concern to a new owner who continues to operate substantially the same business in the same establishment, using substantially the same trade-mark or trade-name, if any, all rights and obligations under OMD orders and regulations which applied to the business before the transfer continue applicable after the transfer, and the old owner no longer has them. The business under the new ownership has the same quotas, specific authorizations and other rights and duties created by OMD orders and regulations as it had under the old ownership. However, the new owner may not continue to exercise any such rights if he discontinues operation of the business he acquired or operates it as a substantially different business or in another establishment, or if he uses a substantially different trade-mark or trade-name. He may not, at any time, use any quota of the transferred business for any other part of his business.

(2) If, on dissolution of a firm, the entire business is not transferred as a going concern to a single successor, but is divided up in any way, application must be made to the OMD for a determination of quotas and other rights and duties under OMD orders and regulations.

(3) An order or regulation of the OMD which places any restriction on the transfer of any particular material or product does not apply to a transfer which is part of a transfer of the own-

ership of an entire business as a going concern, and OMD approval need not be obtained for any such transfer.

(i) *Permission in exceptional cases on appeal.* In any case where the above rules work an exceptional hardship, specific permission may be given on appeal for the transfer of a quota, or a specific authorization or for other exceptions from the rules. An appeal for the transfer of a quota should be filed as an appeal from the order imposing the quota by the person who wishes it transferred to him. If the person from whom it is to be transferred agrees to the transfer, he should join in the appeal. It is not expected that permission will be granted for the purchase or sale of a quota for any consideration in any case where the principal purpose of the transaction is merely to transfer the quota.

## GENERAL RESTRICTIONS ON USE OF

## AUTHORIZATIONS

§ 945.18 *Quantities and kinds of materials or services obtainable with allocations assistance.* When allocations assistance is granted by the OMD, the person authorized may use it to get only that quantity and kind of material or that particular service specified in the authorization or other document issued by OMD. If the quantities of material are not stated in the OMD authorization or other document, it may be used only to get the minimum amount needed. No person may place such authorized orders for more material than he is authorized, even if he intends to cancel some of the orders or to reduce the quantity of material ordered to the authorized amount before it is all delivered. The only cases in which a certified order may be used to get services, as distinct from the production or delivery of material, are when OMD authorizes a named person to use the certificate to get specified services, or when a person authorized to use a certificate on a certified order to get processed material furnishes the unprocessed material to a processor and uses the certificate to get it processed.

Issued this 30th day of January 1948.

OFFICE OF MATERIALS  
DISTRIBUTION,  
By RAYMOND S. HOOVER,  
Issuance Officer.

[F. R. Doc. 48-935; Filed, Jan. 30, 1948;  
11:40 a. m.]

[Allocations Regulation 2, Direction 1, as amended April 22, 1947, Amdt. 1]

PART 945—REGULATIONS APPLICABLE TO  
THE OPERATION OF THE ALLOCATIONS AND  
EXPORT PRIORITIES SYSTEMS

Allocations Regulation 2, Direction 1, as amended April 22, 1947, is further amended as follows:

1. By changing "Civilian Production Administration" and "CPA", in paragraphs (a), (d) and (h), to "Office of Materials Distribution"

2. By deleting the now-obsolete paragraph (g)

Issued this 30th day of January 1948.

OFFICE OF MATERIALS  
DISTRIBUTION,  
By RAYMOND S. HOOVER,  
Issuance Officer

[F. R. Doc. 48-999; Filed, Jan. 30, 1948;  
11:42 a. m.]

[Allocations Regulation 3]

PART 945—REGULATIONS APPLICABLE TO  
THE OPERATION OF THE ALLOCATIONS AND  
PRIORITIES EXPORT SYSTEM

REVIEW-APPEALS PROCEDURE

§ 945.45 Allocations Regulation 3.

INDEX

- Par.  
(a) What this regulation covers.  
(b) What a review-appeal is.  
(c) What the Appeals Board is.  
(d) When a review-appeal may be made.  
(e) How to prepare and file review-appeals.  
(f) Basis for grant or denial.  
(g) Form of grant or denial.  
(h) Finality of denial.  
(i) Policies of Appeals Board.  
(j) Hearings by Appeals Board.  
(k) Presentation of case at hearing.

PURPOSE

(a) *What this regulation covers.* This regulation explains the "review-appeals" procedure of the Office of Materials Distribution and the operations of the Appeals Board. It supersedes Priorities Regulation 16 and Direction 1 to PR 16, issued by the Civilian Production Administration (predecessor of OMD). It does not apply to appeals from suspension orders issued in connection with compliance proceedings.

DEFINITIONS

(b) *What a review-appeal is.* Various OMD orders and regulations provide for (1) appeals for individual relief from their restrictions or (2) applications for individual authorizations, allocations, and other types of assistance. (In this regulation, such appeals and applications are referred to as "initial submissions.") An initial submission is generally granted or denied on the decision of the OMD official administering the particular order or regulation. A "review-appeal" is the procedure by which an applicant can request the OMD Appeals Board to review such a decision upon the ground that it would:

- (1) Work an exceptional and unreasonable hardship on him which is not suffered generally by others in the same industry or activity; or
- (2) Result in improper discrimination against him.

(c) *What the Appeals Board is.* The Appeals Board is composed of the Director of OMD, the Assistant Director, and one or more high-ranking officials of the Director's staff. It acts as the final agency authority in considering review-appeals. It may also decide any initial appeal received by the official administering the order or regulation under which the appeal was filed and, in his discretion, referred by him to the Appeals

Board. The Appeals Board will not normally consider any cases which do not involve claims of hardship or discrimination, as specified in paragraph (b) above. It is not its ordinary function to review actions involving judgment as to the proper distribution of materials, programming of different types of production, and their relative essentiality.

SUBMISSION OF REVIEW-APPEALS

(d) *When a review-appeal may be made.* When a person is dissatisfied with the decision on his initial submission, he may file a review-appeal to the Appeals Board under the following conditions:

(1) If he feels that the decision was improper upon the basis of the hardship or discrimination grounds specified in paragraph (b) above; and

(2) If he has no new and substantial facts to submit for reconsideration by the official who made the original decision (or his representative) or has submitted such facts and failed to obtain a satisfactory decision on such reconsideration. (If he does have new and substantial facts to submit, he should not file a review-appeal to the Appeals Board but should, instead, first resubmit his case for reconsideration upon the basis of those facts. Then, if such reconsideration does not result in a satisfactory decision, he may file a review-appeal on the grounds mentioned in (d) (1) above.)

(e) *How to prepare and file review-appeals.* An appellant should file his review-appeal by letter in triplicate addressed as follows: Appeals Board, Office of Materials Distribution, Department of Commerce, Washington 25, D. C.

The letter must specifically state that it is a review-appeal. It should specify the order or regulation involved, the particular provision involved, the decision appealed from, and any form or case number involved. It should clearly set out the grounds for claiming hardship or discrimination, as specified in paragraph (b) above. A review-appeal not properly prepared or filed may be returned to the appellant without action.

GRANTS AND DENIALS

(f) *Basis for grant or denial.* If the Appeals Board finds that an appellant has demonstrated hardship or improper discrimination, as specified in paragraph (b) above, appropriate relief will be granted. However, if the Appeals Board finds that he has failed to demonstrate either, his appeal will be denied.

(g) *Form of grant or denial.* The grant or denial of any appeal, in whole or in part, will be valid only when issued in writing, in the name of the Office of Materials Distribution, countersigned or attested by the Issuance Office. Where the decision on an appeal is made by the Appeals Board, that fact will be stated in the grant or denial by a phrase such as "on the decision of the Appeals Board."

(h) *Finality of denial.* The denial of any appeal, in whole or in part, on the decision of the Appeals Board represents final agency action. The Appeals Board may elect to reopen a case, but will not ordinarily do so unless the appellant

offers new and substantial information in addition to that previously supplied.

APPEALS BOARD PROCEDURES

(i) *Policies of the Appeals Board.* Owing to changing conditions, the Appeals Board cannot always follow "precedents" established in earlier cases. It is the policy of the Board, however, to follow previous decisions so long as to do so is consistent with existing OMD policies.

Whether a hardship is exceptional and unreasonable or whether there has been improper discrimination is often a question of degree. The Board weighs carefully the facts in each case in the light of similar hardships falling upon others. The Board may consider hardships upon the appellant, the appellant's employees, the local community, or particular consumers. It considers only evidence which is relevant and material to the issues.

(j) *Hearings by the Appeals Board.* In its discretion, the Appeals Board may hold a hearing on any review-appeal, either upon its own initiative (in order to obtain additional facts not contained in the record) or upon request by the appellant. The appellant's case is not prejudiced by the fact that he does not request a hearing. If a hearing is to be held, the Appeals Board will fix the date and time after consulting with the appellant. Hearings are held only in Washington, D. C., at the offices of OMD.

(k) *Presentation of case at a hearing.* The Appeals Board is not a judicial body. Its proceedings are not limited by legal rules of evidence. Hearings before the Board are informal. An appellant may present his case in his own way. He does not have to be represented by counsel, but may be if he desires. Ordinarily, the oath is not administered to witnesses. Nevertheless, any misrepresentation of fact, or any withholding of fact, is punishable under the federal statutes. The obligation is just as serious as if the oath were administered. The following comments may be of help to applicant:

(1) It is well to open a case with a short statement of the issues involved and the facts relied on as working hardship or discrimination, as specified in paragraph (b) above.

(2) The appellant should then develop the issues in greater detail, so as to give the Board a clear understanding of the supporting facts.

(3) All statements intended to bear upon the Board's decision should, so far as possible, be supported by proof or exhibits.

(4) It is often convenient, although not necessary, to provide the members of the Board with individual copies of a written statement of statistical and other pertinent data offered in support of the appeal.

(5) Where an appeal involves highly technical facts, the appellant should be prepared to present expert witnesses or technical reports if he is not qualified to discuss such facts himself.

(6) Following the appellant's statement, the official who previously considered the case (or his representative) is heard, if he wishes to make any state-

ment. Members of the Board then usually ask questions relating to the issues involved, as they are entitled to do at any point in the proceedings.

(7) Any other persons claiming an interest in an appeal may then, in the discretion of the Appeals Board, be given an opportunity to be heard. This may include the appellant's customers, competitors, or representatives of various government agencies.

(8) The appellant, before the hearing is closed, is then given an opportunity to answer such comments as have been made.

(9) Hearings are expected to take not more than one hour but additional time may be granted in exceptional circumstances.

(10) A verbatim transcript of the hearings is ordinarily not taken. However, a summary of the testimony is usually made, and becomes a part of the record. A copy of that summary will be supplied the appellant on request.

Issued this 30th day of January 1948.

OFFICE OF MATERIALS  
DISTRIBUTION,  
By RAYMOND S. HOOVER,  
Issuance Officer.

[F. R. Doc. 48-1000; Filed, Jan. 30, 1948;  
11:42 a. m.]

[Conservation Order M-81, Direction 10]

#### PART 3270—CONTAINERS

##### SPECIAL RESTRICTIONS FOR CANS

(a) *Purpose.* The purpose of this direction is to achieve further conservation in the use of tin for cans. The restrictions set out below are in addition to those contained in Conservation Order M-81.

##### Restrictions on Can Manufacturers

(b) *Restrictions on over-all consumption of tin for cans.* During 1948; in making cans, no person shall use more tin in the form of tinplate coating than was contained in the tinplate he received during 1947 for making cans.

(c) *Equitable distribution of cans.* It is the policy of the Government that can manufacturers observe the following principles in distributing their production of cans:

(1) Adequate provision for the food pack.

(2) Equitable distribution among and within various groups of can users, including special consideration for small business and hardship cases and such provision as is reasonable and practical for newcomers.

(d) *Additional restrictions on making cans for certain products.*

(1) *Beer.* During 1948, in making cans for packing beer, no person shall use more tin in the form of tinplate coating than he used for that purpose during 1947.

(2) *Animal foods.* During 1948, in making cans for packing animal food, no person shall use more tin in the form

No. 22—3

of tinplate coating than whichever is the higher of the following two amounts:

(1) 75% of the amount of tin he used for this purpose during 1947; or

(11) 75% of the amount of tin he used for this purpose during 1941, adjusted to reflect reduction of tin coating from a 1.25-lb. tinplate basis during 1941 to the 0.25-lb. tinplate basis now permitted by Conservation Order M-81.

##### Restrictions on Can Users

(e) *Restrictions on can users.* Notwithstanding any of the provisions of Conservation Order M-81, the following specification restrictions apply to the use of cans for packing the products specified (the number after each item below is a cross-reference to the corresponding item in Schedule I to Order M-81)

(1) *Animal foods (#139)* In packing animal foods, no person shall use cans having any tin-coated ends (i. e., non-soldered parts)

(2) *Coffee (#147)* In packing coffee, no person shall use tinplate cans.

(3) *Motor Lubricating Oils (#202).* In packing motor lubricating oils, no person shall use 1-qt. round refinery-sealed tinplate cans. However, cans of that type made from S. C. M. T. (terne-plate) may be used. (This restriction does not apply to any other kinds of lubricating oils covered by Item 202 on Schedule I to Order M-81.)

(4) *Pigmented Oil Paints (#208e).* In packing pigmented oil paints, no person shall use cans with a tin coating heavier than 0.25-lb. of tin per base box of plate. (As an alternative, cans made from S. C. M. T. may be used, as permitted by Order M-81.)

(f) *Effective date of specifications.* The specification restrictions of paragraph (e) above shall become effective on February 29, 1948, subject to the exemptions for existing inventories set out in paragraphs (d) and (f) (1) of Conservation Order M-81. For the purposes of this direction those exemptions are optional and not mandatory.

Issued this 30th day of January 1948.

OFFICE OF MATERIALS  
DISTRIBUTION,  
By RAYMOND S. HOOVER,  
Issuance Officer.

[F. R. Doc. 48-994; Filed, Jan. 30, 1948;  
11:40 a. m.]

## TITLE 37—PATENTS, TRADE MARKS, AND COPYRIGHTS

### Chapter I—Patent Office, Department of Commerce

#### PART 100—RULES OF PRACTICE IN TRADE-MARK CASES

##### EXTENSION OF TIME FOR RENEWING TRADE-MARK REGISTRATIONS: DENMARK

CROSS REFERENCE: For the granting of extension of time for renewing trade-mark registrations of the type noted in § 100.352, to Denmark, see Proclamation 2768 under Title 3, *supra*.

## TITLE 41—PUBLIC CONTRACTS

### Chapter I—Bureau of Federal Supply, Department of the Treasury

#### MISCELLANEOUS AMENDMENTS

The following amendments are issued to Chapter 1, Title 41.

#### PART 1—GENERAL PROVISIONS

Section 1.6 is added, reading as follows:

§ 1.6 *Sellers to observe regulations.* Sellers are advised that contracts with and sales to the Government of property and supplies may be invalidated if made contrary to the regulations in this chapter.

NOTE: The functions included in this part were transferred in part to the Federal Works Agency by Reorganization Plan No. 1 under the Reorganization Act of 1939 (Title 44, Ch. VII) and the War Assets Administration under the Surplus Property Act of 1944, as amended (Title 32, Ch. XXIII).

#### PART 2—COORDINATION AND CONSOLIDATION OF SUPPLY

1. The headnote of § 2.4 *Common contracts (general schedule of supplies)* is changed to "Common contracts."

2. In § 2.12 *Amendments to regulations* and § 2.13 *Authority of Director, Bureau of Federal Supply subject to approval of Secretary* insert "10.1 to 10.4" before "11.1 to 11.3."

#### PART 5—ORGANIZATION AND PROCEDURES

1. Section 5.1 *Central organization* is amended to read in part as follows:

§ 5.1 *Central organization.* The Bureau of Federal Supply of the Department of the Treasury, created under Executive Order 6166, dated June 10, 1933 (41 CFR 1.1-1.5) is under the general supervision and control of the Director, Bureau of Federal Supply, aided by two Assistant Directors, with the principal office located at 7th and D Streets, SW., Washington 25, D. C. \* \* \*

The work of the Bureau of Federal Supply is carried on through five separate branches, each operating directly under a Deputy Director or a Chief Accountant, four divisions and a board, as well as several interdepartmental and industry advisory committees, such as the Advisory Committee on Procurement Policy, the Federal Standard Contract Committee, the Interdepartmental Traffic Committee, the Federal Specifications Board and the Industry Advisory Council.

(a) *Purchase Branch.* Responsible for the purchase of supplies, materials, equipment and services (including public utility services) for the general requirements of the Executive Branch of the Government; the purchase of supplies, materials, equipment and services, including transportation and storage thereof, under special procurement programs; purchase of strategic and critical material and the transportation, maintenance and warehousing of stock piles thereof under the Strategic and Critical Materials Stock Piling Act (60 Stat. 596) the design of furniture and furnishings;

through its central traffic service, the coordination and direction of traffic and transportation activities to secure the most economical movement of such supplies, materials and equipment and the negotiation with carriers for special rates to effectuate such purpose; economic and technical analyses of public utility services, to effect rate reductions, consolidations, and realignment of equipment with consequent increased efficiency and savings in cost.

(b) *Administrative Branch.* Responsible for the personnel administration and management for the Bureau of Federal Supply; the preparation and justification of all budgetary requirements; centralizing and coordinating organizational, procedural and management studies to develop standard administrative procedures and policies; controlling all administrative functions of the Bureau of Federal Supply, including mail, files, messengers, supplies and space requirements; disseminating general information of the Bureau of Federal Supply to the public, other governmental agencies and Congress through press and other releases; and supervising Federal Business Associations located in various parts of the country.

(d) *Fiscal Branch.* Under the direction of a Chief Accountant, is responsible for financial policies and maintenance of the accounting and fiscal system of the Bureau; processes payment of public vouchers and other claims of or against the Bureau; and maintains appropriate liaison with vendors and agencies doing business with the Bureau.

(h) *Renegotiation Rebate Division.* Determines, under supervision of a Chief and in accordance with policies and regulations prescribed by the War Contracts Price Adjustment Board, net renegotiation rebates due war contractors of the Government under section 124 of the Internal Revenue Code (sec. 302, 54 Stat. 999; 26 U. S. C. & Sup. 124)

(i) *Administrative Inspection and Audit Division.* Headed by a Chief Auditor, inspects administrative and fiscal operations of the Bureau to insure effectiveness and integrity; directs internal audits of fiscal records; and investigates personnel irregularities and loyalty, contract termination and accident claims, and other matters involving the Bureau.

2. Section 5.3 *Delegations of final authority* is amended to read in part as follows:

§ 5.3 *Delegations of final authority.*

(a) *Contracts and agreements.*

(1) *Washington Office:*

(ii) Not exceeding \$25,000, for procurement purposes—Chief, Contract Division.

(iii) Not exceeding \$10,000, for procurement purposes—Chiefs, Purchase Sections.

(iv) Not exceeding \$2,500, for procurement purposes—Chief, Printing Section; Assistants to Chiefs, Purchase Sections.

(v) Contract DA-Tps-17000 with E. B. Badger & Sons Co.—John J. Kirby.

(f) *Renegotiation of contracts.* The powers, functions and duties conferred upon the Secretary of the Treasury by delegation from the War Contracts Price Adjustment Board under the authority of the Renegotiation Act (50 U. S. C. App., Sup., 1191) Director, Bureau of Federal Supply except for authority relating to determination of net renegotiation rebates under section 124 of the Internal Revenue Code: Chief, Renegotiation Rebate Division.

3. Section 5.5 *Final opinions or orders and rules* is amended to read as follows:

§ 5.5 *Final opinions or orders and rules.* Final opinions and orders in the adjudication of cases, including findings in contract disputes, and all rules issued by the Bureau of Federal Supply are available to public inspection. Requests to examine such final opinions and orders should be addressed to the Director, Bureau of Federal Supply, Washington 25, D. C.

4. Section 5.6 *Official records* is amended to read in part as follows:

§ 5.6 *Official records.* \* \* \* These records relate principally to the procurement of supplies, materials, equipment and services, the award, performance, payment, amendment and termination of contracts, and the disposal of forfeited distilled spirits.

5. Section 5.101 *Contracts* is amended to read in part as follows:

§ 5.101 *Contracts* — (a) *Invitation for bids.* \* \* \* Before being placed on the mailing list to receive pertinent invitations for bids, Bureau of Federal Supply Form TS 705 (Revised) "Mailing List Application" must be filed. Copies are available at all offices.

(b) *Awards.* Contracts are awarded to the lowest responsible bidder offering to furnish supplies, materials, equipment and services and to the highest responsible bidder offering to purchase surplus supplies in the absence of special security or other public interest factors. A Board of Review of Bidders' Responsibility appointed by the Director, Bureau of Federal Supply considers referred questions of bidders' responsibility arising in connection with the award of contracts by the Washington Office. Contracts are signed by authorized contracting officers in Washington, D. C., and the field (41 CFR 5.3) upon the recommendations of purchasing and sales officers and their supervisors.

(c) *Protests of awards* \* \* \* Hearings will be arranged on request, in Washington, D. C., before a committee composed of the Special Assistant to the Director, a member of the Legal Division, the Chief, Contract Division and the Assistant to Chief, Purchase Section concerned.

6. The headnote of § 5.103 *Motor accident claims* is changed to "Tort claims."

#### PART 8—SUPPLIES TO BE PROCURED BY THE BUREAU OF FEDERAL SUPPLY

Section 8.1 *Exclusive procurement by Bureau of Federal Supply; commodities* is amended to read in part as follows:

§ 8.1 *Exclusive procurement by Bureau of Federal Supply; commodities.*

(b) *Motor vehicles.* New motor-propelled vehicles for the carriage of passengers and freight, including passenger automobiles, station wagons, ambulances, buses, motorcycles, motor scooters, carryalls, trucks, truck-tractors and trailers. [Circ. Letter B-20 Rev., Supp. 3, Nov. 6, 1947].

(d) *Wood, lumber and timber* Repealed. [Circ. Letter B-1 Rev., Oct. 1, 1947]

(e) *Electrical equipment, materials and supplies.* Repealed. [Circ. Letter B-1 Rev., Oct. 1, 1947]

(f) *Machinery.* Repealed. [Circ. Letter B-1 Rev., Oct. 1, 1947]

(i) *Electric fans.* (1) New electric fans, excluding shipboard fans for the Navy Department, the U. S. Maritime Commission and the Coast Guard. [Circ. Letter B-29 Rev., Sept. 17, 1947]

(k) *Paper and paperboard.* (1) Paper and paperboard, except for the following:

(i) Needs of the National Military Establishment and the U. S. Maritime Commission; [Circ. Letter B-19 Rev., Oct. 1, 1947]

(i) *Refrigerators.* New domestic mechanical refrigerators, but excluding requirements of the National Military Establishment, the U. S. Maritime Commission, the Panama Canal, the National Housing Agency and the Public Health Service. [Circ. Letter B-30 Rev., Oct. 1, 1947]

(n) *IBM control panels.* Additional control panels for use with electric accounting machines of the International Business Machines Corporation, above the standard number furnished by the corporation with the machine. [Circ. Letter B-52, May 5, 1947]

(o) *Steel filing cabinets.* New letter and cap size steel upright filing cabinets for "agencies in continental United States." [Circ. Letter B-53, June 25, 1947; Supp. 1, Aug. 18, 1947]

#### PART 11—STANDARD CONTRACT PROCEDURE

1. Section 11.4 *Forms to be used* is amended to read in part as follows:

§ 11.4 *Forms to be used.*

(e) *Contracts for coal.*

(1) The forms referred to in paragraphs (d) (2) and (d) (3) of this section, except that when Standard Form No. 43 is used with U. S. Standard Form 33 (Revised) the following paragraph shall be added to Form 33:

Standard Form No. 43 (Standard Government Purchase Conditions for Coal) is a part

<sup>1</sup> This section applies to the requirements of the Government of the District of Columbia only to the extent authorized by secs. 1-4, 45 Stat. 1341, sec. 5, 58 Stat. 530, sec. 4, 58 Stat. 822; 41 U. S. C. 7a, 7b, 7c, 7d, D. C. Code, Sup., 1-241.

of this bid. Paragraph 4 of above Conditions of U. S. Standard Form 33 (Revised) is hereby deleted, and paragraph 6 "Delays" of Standard Form No. 43 shall apply. \* \* \*

(f) *Contracts for telephone service.* (1) U. S. Standard Form No. 40 (Revised) approved by the Secretary of the Treasury September 10, 1937—for contracts for telephone service within the United States, except in the District of Columbia, and except for contracts entered into by the National Military Establishment and Coast Guard, and contracts covering the requirements of two or more agencies entered into by the Bureau of Federal Supply, Department of the Treasury.

2. The Subpart entitled "Escalation Provision in Procurement of Coal" and § 11.200 *Coal; escalation provision* are repealed.

3. Subpart D (Special Standard Contract Provisions) and Subpart E (Preference for Domestic Products) are added, reading as follows:

**SUBPART D—SPECIAL STANDARD CONTRACT PROVISIONS**

§ 11.201- *Labor and material reports; construction contracts.* Federal agencies not operating under arrangement with the Department of Labor to furnish such statistics directly to it shall request prospective contractors on Government construction work exceeding \$2,000 to be performed in continental United States to agree to include in the contract the following labor and material report provision recommended by the Department of Labor:

The contractor will report monthly, and will cause all subcontractors to report in like manner, within five days after the close of each calendar month, on forms to be furnished by the Department of Labor, the number of persons on their respective pay rolls, the aggregate amount of such pay rolls, the man hours worked, and the total expenditures for materials. He shall furnish to the Department of Labor the names and addresses of all subcontractors on the work at the earliest date practicable. The foregoing is applicable only to work at the site of the construction project.

[Circ. Letter B-55 Rev., Nov. 7, 1947]

**SUBPART E—PREFERENCE FOR DOMESTIC PRODUCTS**

§ 11.301 *Purchase of domestic products; favoring differential.* (a) In applying the exception contained in Title III, section 2, of the so-called Buy-American Act of March 3, 1933 (47 Stat. 1520; 41 U. S. C. 10a) which permits purchase of products of foreign origin if the cost of domestic products is unreasonable, the following differentials shall be applied by Executive departments and independent establishments in favor of domestic products to be delivered in the continental United States:

- (1) Where the cost of the foreign products exceeds \$100, a differential of 25%.
  - (2) Where the cost of the foreign product is \$100 or less, a differential of 100%.
- (b) When the cost is enhanced by duty paid the United States, the differential shall be 25% or 100%, as the case may be, of the cost exclusive of duty. The cost of the domestic product is unreasonable whenever it exceeds the cost of the

foreign product including duty plus the amount of the differential.

(c) Nothing in this section prejudices the authority of any department or independent establishment to reject a bid for a domestic product as unreasonable, or to negotiate for a lower price, for any reason other than the comparative cost of a foreign product. [Circ. Letter B-61, Oct. 1, 1947]

**PART 13—FEDERAL SPECIFICATIONS**

Footnote 3 to § 13.3 Required use is amended to read as follows:

\* All published Federal Specifications and the Federal Specifications Index may be purchased by the public from the Superintendent of Documents, Government Printing Office, Washington 25, D. C.

**PART 20—TRAFFIC ACTIVITIES**

1. In § 20.1 *Coordination* substitute "Director, Bureau of Federal Supply" for "Assistant Director," and delete "after approval of policy by the Director, Bureau of Federal Supply."

2. Section 20.4 *Tariff files and land-grant information* is amended to read as follows:

§ 20.4 *Tariff files and rate information.* The Director, Bureau of Federal Supply will maintain adequate tariff files and furnish information as to commercial and special rates to executive departments. Files of freight tariffs in offices securing rates from the Director, Bureau of Federal Supply will at all times be restricted to the minimum required for their efficient operation.

3. In § 20.6 *Routing orders* and § 20.7 *Requests for routing orders* substitute "Director, Bureau of Federal Supply" for "Assistant Director."

**PART 33—SURPLUS AND SEIZED PERSONAL PROPERTY**

1. The note to this part is amended to read as follows:

The regulations in this part are suspended to the extent of conflict with regulations issued pursuant to the Surplus Property Act of 1944, as amended (Title 32, Ch. XXIII).

2. The following sections are repealed: §§ 33.4-33.7, 33.100, 33.102, 33.105, 33.106 (b) 33.108-33.115, 33.200-33.204.

**PART 34—SURPLUS PERSONAL PROPERTY OF THE CIVILIAN CONSERVATION CORPS**

The regulations in this part are repealed.

**PART 35—ABANDONED AND FORFEITED PERSONAL PROPERTY**

The regulations in this part are revised to read as follows:

Sec.

35.1 Definitions.

35.2 To what the regulations in this part apply.

35.3 Reports.

35.4 Property available.

35.5 Requests for assignment of property.

35.6 Disposition of property.

35.7 Custody of property.

35.8 Payment.

35.9 Status of property assigned.

**Authority:** §§ 35.1 to 35.9, inclusive (with the exception cited in parentheses following section affected), issued under sec. 307, 49 Stat. 880; 40 U. S. C. 304.1.

§ 35.1 *Definitions.* The following terms shall have the meaning set forth below whenever used in the regulations in this part:

(a) "Director" means the Director, Bureau of Federal Supply, of the Department of the Treasury.

(b) "Federal Agency" includes any executive department, independent establishment, board, commission, bureau, service, or division of the United States, and any corporation in which the United States owns all or a majority of the stock.

(c) "Abandoned" means voluntarily abandoned to any Federal Agency in such manner as to vest title to the property in the United States.

(d) "Forfeited" means forfeitures whether by summary process or by order of court pursuant to any law of the United States.

(e) "Property" means all personal property, including but not limited to, vessels, vehicles, aircraft, and abandoned alcoholic beverages.

§ 35.2 *To what the regulations in this part apply.* The regulations in this part apply to abandoned and forfeited property, but excluding:

(a) Forfeited distilled spirits (including alcohol) wine, and malt beverages, as defined in section 17 (a) and subject to regulations (41 CFR Part 36) issued pursuant to section 9 (d) of the Federal Alcohol Administration Act, as amended (49 Stat. 939, 987; 27 U. S. C. 211a, 26 U. S. C. 2805 (a) (4)).

(b) Arms or munitions of war condemned pursuant to the provisions of section 4 of title VI of the act of June 15, 1917, as amended (40 Stat. 224; 22 U. S. C. 404)

(c) Narcotic drugs, defined as opium, coca leaves, cocaine, or any salt, derivative, or preparation of opium, coca leaves, or cocaine, by section 1 of the act of February 9, 1909, as amended (35 Stat. 614; 21 U. S. C. 171).

(d) Firearms, including machine guns, as defined in section 1, amended, of the National Firearms Act (48 Stat. 1236, 49 Stat. 1192; 26 U. S. C. 2733)

(e) Abandoned, condemned or forfeited tobacco, snuff, cigars, or cigarettes which, when offered for sale, will not bring a price equal to the internal revenue tax due and payable thereon and which is subject to destruction or delivery without payment of any tax to any hospital maintained by the United States for the use of present or former members of the military or naval forces of the United States as provided in section 2190 of the Internal Revenue Code (53 Stat. 245; 26 U. S. C. 2190).

(f) Property whose condition is such that it has no value except as scrap material.

(g) Animals.

(h) Any item or group of similar items of property at any one location of a value less than \$100, except where the Director advises any Federal Agency or Agencies that specified items shall be reported regardless of value.

- (l) Money and valuable securities.  
 (j) Perishable commodities and prohibited articles, including but not limited to, indecent or obscene articles.

§ 35.3 *Reports.* (a) Abandoned and forfeited property, except property not the subject of a court proceeding which the holding Agency desires to retain for official use, shall be reported promptly to the Director by the head of the Federal Agency by which the property was seized or to which it was abandoned. If a seizure made by one Federal Agency is adopted by another for prosecution under the laws enforced by the adopting Federal Agency, the report shall be made only by the adopting Federal Agency.

(b) Reports shall contain the following information:

(1) Name of the reporting Federal Agency.

(2) Whether property (i) voluntarily abandoned, (ii) forfeited otherwise than by court decree, (iii) or subject of a court proceeding, and if so, place and judicial district of court from which decree will be issued.

(3) Present official custodian of property, and street, city, and state address where located.

(4) Description and condition of property in sufficient detail to enable a decision to be made regarding its desirability and utility.

(5) Fair market value of property as appraised by holding Agency.

(6) Existence or probability of lien or claim of lien, and amount involved.

(7) Charges incurred for hauling, transporting, towing and storage to date of report, and rate of storage charges.

(8) If the property is a vehicle: (i) Type, (ii) make, (iii) model or year, (iv) body, (v) color, (vi) capacity, (vii) speedometer reading, (viii) number of wheels, (ix) extra equipment, (x) motor number, (xi) nature and probable cost of repairs necessary to put in serviceable condition, (xii) condition of tires.

(9) If the property is a vessel or an aircraft: (i) Type, (ii) manufacturer or builder, (iii) identifying official name or number, (iv) age, (v) description.

(10) If the property is abandoned alcoholic beverages: (i) Qualities and kinds (whether ethyl alcohol or hydrated oxide of ethyl; rye or bourbon or other whiskey and its brand, if any; sparkling or still wine and its color or brand; cordial, brandy, gin, etc.) (ii) proof rating and other qualities shown by test, (iii) number and size of containers, (iv) condition (whether fit for medicinal, scientific or mechanical purposes) and basis therefor, (v) condition for shipping.

§ 35.4 *Property available.* The Director will circularize Federal Agencies at periodic intervals indicating the property available for assignment to them.

§ 35.5 *Requests for assignment of property.* Any Federal Agency wanting abandoned and forfeited property for official use may file a request for it with the Director. The request must originate in the requesting Agency's headquarters or be submitted through its headquarters. When a seizing Federal Agency wants property in the custody of another Federal Agency which has adopted the seiz-

ure for forfeiture, the seizing Agency's request shall be made to the adopting Agency which shall deliver the property, if available, to the seizing Agency without reference to the Director. If, however, proceedings are commenced for forfeiture by court decree, the adopting Agency shall forward the request to the Director. Every request, except by a seizing Federal Agency, must be accompanied by a statement describing the need for the property requested.

§ 35.6 *Disposition of property.* All property reported to the Director pursuant to § 35.3 shall be disposed of as follows:

(a) If abandoned or forfeited otherwise than by court decree and not ordered by competent authority to be returned to any claimant, the Director will order it delivered to any Federal Agency which has requested it, and which, in his judgment, should get it, or will order it disposed of as otherwise provided by law.

(b) If proceedings are being or have been commenced for the forfeiture of the property by court decree, the Director will, before entry of a decree, apply to the court to order delivery of the property.

(1) To the seizing Federal Agency if it has requested the property for its official use or if no such request has been filed;

(2) To any other Federal Agency which has requested it, and which, in his judgment, should be given the property or

(3) To the seizing Federal Agency to be retained in its custody, if the seizing agency has not requested it, and no other Federal Agency has requested and in his judgment should be given such property, and if in his judgment the property may later become necessary for any Federal Agency for official use. Thereafter, the Director will, within a reasonable time, order such Agency to deliver the property to any other Federal Agency which requests and in his judgment should be given such property, or to dispose of it as otherwise provided by law.

§ 35.7 *Custody of property.* The Bureau of Federal Supply will not take possession of the property, and the holding Federal Agency shall have custody of, and be responsible for, the property until it is delivered or shipped to a receiving Federal Agency or otherwise disposed of after clearance by the Director.

§ 35.8 *Payment.* (a) Cost of hauling, transporting, towing, and storage of property shall be paid by the Federal Agency which has custody of it, and if it is later delivered to another Federal Agency for official use under these regulations, the latter shall reimburse the holding Agency all such costs incurred before the date of delivery. The holding Federal Agency will bill the receiving agency for reimbursable costs.

(b) In addition to reimbursement as provided in paragraph (a) of this section, a Federal Agency which receives property transferred pursuant to § 35.6 (a) or § 35.6 (b) (3) shall deposit in the Treasury as miscellaneous receipts the amount, if any, by which the fair market value of the property exceeds reimbursable costs. Unless otherwise deter-

mined by the Director, the fair market value of the property will be the value as appraised by the holding agency pursuant to § 35.3 (b) (5).

(c) The appropriation available to any Federal Agency for the purchase, hire, operation, maintenance, and repair of property of any kind is available to pay expenses of operation, maintenance and repair of property of the same kind received by it under the regulations in this part. Such an appropriation is also available to pay any lien recognized and allowed by law, and to pay all moneys found to be due any person upon the duly authorized remission or mitigation of any forfeiture. (Sec. 4, 60 Stat. 169)

§ 35.9 *Status of property assigned.* Any property retained or delivered for official use under the law and the regulations in this part loses its identity as abandoned or forfeited property, and when no longer needed for official use shall be disposed of in the same manner as other surplus property.

#### PART 36—FORFEITED DISTILLED SPIRITS, WINE AND MALT BEVERAGES

The regulations in this part are revised to read as follows:

Sec.

36.1 Definitions.

36.2 Report to Director; destruction of distilled spirits, wine and malt beverages.

36.3 Analysis of distilled spirits, wine and malt beverages not destroyed.

36.4 Lists of distilled spirits, wine and malt beverages; requests for transfer.

36.5 Action on requests; preference to Government agencies; costs.

36.6 Award of alcohol to eleemosynary institutions and Government agencies; denaturation.

36.7 Destruction of distilled spirits, wine and malt beverages not otherwise disposed of.

36.8 Reports by District Supervisors and Collectors of Customs.

AUTHORITY: §§ 36.1 to 36.8, inclusive (with the exception cited in parentheses following section affected), issued under section 9 (d) 49 Stat. 987; 26 U. S. C. 2805 (a) (4).

§ 36.1 *Definitions.* The following terms shall have the meaning set forth below whenever used in the regulations in this part:

(a) "Director" means the Director, Bureau of Federal Supply, of the Department of the Treasury.

(b) "Distilled spirits" means ethyl alcohol, hydrated oxide of ethyl, spirits of wine, whiskey, rum, brandy, gin, and other distilled spirits, including all dilutions and mixtures thereof, for non-industrial use;

(c) "Wine" means (1) wine as defined in sections 610 and 617 of the Revenue Act of 1918 (40 Stat. 1109, 1111, 26 U. S. C. 3044, 3036 (a)) as now in force or hereafter amended, and (2) other alcoholic beverages not so defined, but made in the manner of wine, including sparkling and carbonated wine, wine made from condensed grape must, wine made from other agricultural products than the juice of sound, ripe grapes, imitation wine, compounds sold as wine, vermouth, cider, perry, and sake; in each instance only if containing not less than

7 per centum and not more than 24 per centum of alcohol by volume, and if for non-industrial use;

(d) "Malt beverage" means a beverage made by the alcoholic fermentation of an infusion or decoction, or combination of both, in potable brewing water, of malted barley with hops, or their parts, or their products, and with or without other malted cereals, and with or without the addition of unmalted or prepared cereals, other carbohydrates or products prepared therefrom, and with or without the addition of carbon dioxide, and with or without other wholesome products suitable for human food consumption;

(e) "Institution" and "eleemosynary institution" shall mean any non-profit institution organized and operated for charitable purposes, whose net income does not inure in whole or in part to the benefit of shareholders or individuals, which shall have filed with the Director a satisfactory affidavit establishing such status;

(f) "Agency" or "Government agency" shall mean any executive department, independent establishment, board, commission, bureau, service, or division of the United States, and any corporation in which the United States owns all or a majority of the stock.

§ 36.2 *Report to Director: destruction of distilled spirits, wine and malt beverages.* (a) All distilled spirits (including alcohol) wine and malt beverages forfeited summarily or by order of court under any law of the United States shall be reported by the seizing agency to the Director on Internal Revenue Form 1563 except:

(1) Alcohol of less proof than 160°;  
(2) Distilled spirits (including alcohol) wine and malt beverages not fit for medicinal, scientific or mechanical purposes (domestic distilled spirits (other than alcohol), wine and malt beverages not produced at a registered distillery, winery, or brewery, will be regarded as unfit for medicinal purposes) and

(3) Odd lots consisting of any one seizure of less than 5 wine gallons except distilled spirits (other than alcohol) of any one kind and brand in excess of one wine gallon.

(b) All forfeited distilled spirits (including alcohol) wine and malt beverages not to be reported under paragraph (a) of this section shall be destroyed immediately after forfeiture.

§ 36.3 *Analysis of distilled spirits, wine and malt beverages not destroyed.* Representative samples of forfeited distilled spirits (including alcohol) wine and malt beverages not destroyed under the authority of § 36.2 (b) shall be taken from the containers in which seized, and shall be analyzed by the nearest Government chemist. A copy of the chemist's report will be attached to Internal Revenue Form 1563 transmitted to the Director.

§ 36.4 *Lists of distilled spirits, wine and malt beverages; requests for transfer.* The Director shall maintain and circularize lists of all forfeited distilled

spirits (including alcohol), wine and malt beverages reported to him, and Government agencies and eleemosynary institutions wanting such property shall forward their requests to the Director to cover not more than one year's requirements, specifically stating the kind desired and detailed specifications, if any, quantity, place or delivery, and the exact purpose for which to be used.

§ 36.5 *Action on requests; preference to Government agencies; costs.* The Director shall fill such requests as he may determine proper, giving preference, however, to the requests of Government agencies. The receiving agency or institution shall pay all costs of packing and transportation. In addition, if the fair market value of the property transferred is greater than these costs, the receiving agency shall deposit in the Treasury as miscellaneous receipts the difference. Unless otherwise determined by the Director, the fair market value of the property will be the appraised value as reported by the seizing agency on Internal Revenue Form 1563. (Sec. 4, 60 Stat. 169)

§ 36.6 *Award of alcohol to eleemosynary institutions and Government agencies; denaturation.* Forfeited alcohol may be awarded by the Director to eleemosynary institutions for medicinal purposes only, or to Government agencies (a) for medicinal or scientific purposes and (b) for mechanical purposes for use by such agencies in instances when, in the judgment of the seizing agency, any part or all of a seizure can economically be denatured and transferred. Potable alcohol awarded for transfer to any agency for mechanical purposes shall first be denatured in the manner required by the seizing agency, under the supervision of an officer of the seizing agency. The agency designated to receive such alcohol shall purchase all denaturing materials and pay for labor costs incurred in such denaturation.

§ 36.7 *Destruction of distilled spirits, wine and malt beverages not otherwise disposed of.* When forfeited distilled spirits (including alcohol) wine or malt beverages which have been reported on Internal Revenue Form 1563 are not to be disposed of to a Government agency for official use, or to an eleemosynary institution, the seizing agency submitting the form will be so advised by the Director, and the distilled spirits (including alcohol) wine or malt beverages shall be destroyed by such agency.

§ 36.8 *Reports by District Supervisors and Collectors of Customs.* District Supervisors will report on Internal Revenue Form 1565, prepared in duplicate, the disposition of all distilled spirits (including alcohol), wine or malt beverages directed by the Director, the original thereof to be sent to the Deputy Commissioner and the copy retained in the District Supervisor's files. Collectors of Customs shall report such disposition in the manner required by regulations for reporting the transfer of seized property to other agencies for official use.

## PART 38—LOANS TO NON-FEDERAL VOCATIONAL EDUCATION AUTHORITIES OF SURPLUS PERSONAL PROPERTY OF THE NATIONAL YOUTH ADMINISTRATION

The regulations in this part are repealed.

(Secs. 3, 12, 60 Stat. 238, 244; 5 U. S. C. Sup. 1002, 1011, sec. 1, E. O. 6166, June 10, 1933) (Sec. 2, Director's Order 73, approved by the President June 10, 1939; 41 CFR 1.2, 3.2)

[SEAL] CLIFTON E. MACK,  
Director, Bureau of Federal Supply.

Approved: January 26, 1948.

E. H. FOLEY, Jr.,  
Acting Secretary of the Treasury.

[F. R. Doc. 42-910; Filed, Jan. 30, 1948;  
9:30 a. m.]

## TITLE 43—PUBLIC LANDS: INTERIOR

### Subtitle A—Office of the Secretary of the Interior

[Order No. 2406]

#### PART 1—REPRESENTATION OF PARTIES IN PROCEEDINGS BEFORE THE DEPARTMENT OF THE INTERIOR: REGULATION OF PRACTITIONERS

##### DISQUALIFICATIONS

Paragraph (e) of § 1.5 is repealed and a cross reference is added after that section, as follows:

§ 1.5 *Disqualifications.* \* \* \*

Cross Reference: Attorneys and other practitioners not to act as notaries in same case, see § 221.63a.<sup>1</sup>

MASTIN G. WHITE,  
Acting Assistant Secretary  
of the Interior.

JANUARY 26, 1948.

[F. R. Doc. 42-873; Filed, Jan. 30, 1948;  
8:46 a. m.]

### Chapter I—Bureau of Land Management, Department of the Interior

[Circular No. 1669]

#### PART 210—OFFICERS AND EMPLOYEES

##### PART 221—RULES OF PRACTICE

##### MISCELLANEOUS AMENDMENTS

1. Section 210.1 is amended by adding a cross reference, as follows:

§ 210.1 *Officers qualified; affidavit and certificate of official character required in certain cases.* \* \* \*

Cross Reference: Attorneys and other practitioners not to act as notaries in same case, see § 221.63a.

2. The following section is added under the heading "Attorneys";

<sup>1</sup> See Chapter I of this title, *infra*.

§ 221.89a *Attorneys and agents acting as notaries in the same case.* The third proviso of section 558 of the act of March 3, 1901 (31 Stat. 1279) as amended December 16, 1944 (58 Stat. 810, D. C. Code, Supp. IV, sec. 1-501), provides that no notary public shall be authorized to take acknowledgments, administer oaths, certify papers or perform any official act in connection with matters in which he is employed as counsel, attorney or agent, or in which he may be in any way interested, before any of the departments of the United States Government. Under this statute, any papers in which such notarial action has been taken by such person must be returned for valid notarial action (Rev. Stat. 453, 2478; 43 U. S. C. 2, 1201)

MASTIN G. WHITE,  
Acting Assistant Secretary  
of the Interior

JANUARY 26, 1948.

[F. R. Doc. 48-872; Filed, Jan. 30, 1948;  
8:46 a. m.]

## TITLE 49—TRANSPORTATION AND RAILROADS

### Chapter I—Interstate Commerce Commission

[S. O. 87, Amdt. 10]

#### PART 95—CAR SERVICE

##### DEMURRAGE ON COAL

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 26th day of January A. D. 1948.

Upon further consideration of the provisions of Service Order No. 87 (7 F. R. 8066) as amended (7 F. R. 8438; 11 F. R. 4737, 8451, 12726, 14650; 12 F. R. 259, 2131, 4886) and good cause appearing therefor; *It is ordered, That:*

Service Order No. 87, as amended, codified as § 95.500 (CFR) be, and it is hereby further amended by substituting the following paragraph (c) for paragraph (c) thereof:

(c) This section, as amended, shall expire at 7:00 a. m., August 1, 1948, unless otherwise modified, changed, suspended, or annulled by order of this Commission.

*It is further ordered,* That this amendment shall become effective at 7:00 a. m., January 31, 1948; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(Sec. 1, 24 Stat. 379, as amended; 49 U. S. C. 1 (10)-(17))

By the Commission, Division 3.

[SEAL]

W P BARTEL,  
Secretary.

[F. R. Doc. 48-885; Filed, Jan. 30, 1948;  
8:59 a. m.]

## PROPOSED RULE MAKING

### DEPARTMENT OF AGRICULTURE

#### Production and Marketing Administration

##### [7 CFR, Part 927]

#### HANDLING OF MILK IN NEW YORK (METROPOLITAN MILK MARKETING AREA)

#### DECISION WITH RESPECT TO PROPOSED MARKETING AGREEMENT AND PROPOSED AMENDMENT TO ORDER, AS AMENDED

Pursuant to Public Act No. 10, 73d Congress (May 12, 1933), as amended, and as reenacted and amended by the Agricultural Marketing Agreement Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders (7 CFR, Supps., 900.1 et seq., 11 F. R. 7737; 12 F. R. 1159, 4904) a public hearing was held at Utica, New York on March 17-21, 1947, and continued at New York City on March 24 and 25, 1947, upon certain proposed amendments to the tentatively approved marketing agreement and to the order, as amended, regulating the handling of milk in the New York metropolitan area.

**Findings and Conclusions.** Findings and conclusions on certain of the material issues concerning which evidence was presented at the hearing were set forth in the decision of the Secretary filed on June 30, 1947 (12 F. R. 4413). The remaining material issues<sup>1</sup> presented at the hearing are as follows:

1. Revision of the pricing provisions for Class I-C milk (H. N. Nos. 29, 30, and 31).

<sup>1</sup> The description of each issue is followed by the numbers of the proposals (as set forth in the notice of hearing issued March 7, 1947) directly associated with that issue, thus (H. N. No. —).

2. Elimination of the "floor provisions" as now contained in the pricing provisions for Class II-B, II-D, and II-E milk (H. N. Nos. 32 and 33).

3. Revision of the pricing provision for Class III milk (H. N. Nos. 35 and 36).

4. Elimination of the "floor provisions" and to make other changes in the pricing provisions for Class IV-A and IV-B milk (H. N. Nos. 6, 37, 38, 39, and 40).

5. A new method of calculating the butterfat differential used in connection with payments to producers (H. N. No. 45).

6. Revision of the pricing provision for Class V-B milk (H. N. No. 58).

7. Revision of provisions for payments for milk or milk products other than from producer sources (H. N. Nos. 52, 53, 54, 55, and 56).

8. General.

A notice of recommended decision and opportunity to file written exceptions to recommended findings and conclusions on these issues was filed on November 5, 1947, and published in the FEDERAL REGISTER (12 F. R. 7334). Exceptions to that recommended decision were filed on behalf of the Milk Dealers' Association of Metropolitan New York, Inc., Metropolitan Cooperative Milk Producers Bargaining Agency, Inc., Association of Ice Cream Manufacturers of New York State; New England Milk Producers' Association; New York State Guernsey Breeders' Cooperative, Inc., and Babylon Milk and Cream Company. All exceptions filed were considered in making the findings and conclusions set forth in this decision. To the extent that the findings and conclusions contained herein with respect to each issue are at variance with any exceptions pertaining thereto, such exceptions are denied. Many of the exceptions are discussed in detail in the findings and conclusions with respect to the issue to which the exception refers.

The recommended decision contained rulings upon the proposed findings and conclusions submitted by interested parties in this proceeding. Such rulings are confirmed except as they are modified by the findings and conclusions set forth herein. Exception was taken by the Milk Dealers' Association of Metropolitan New York, Inc., to the rulings contained in the recommended decision upon proposed findings and conclusions submitted by them on certain procedural questions. Such rulings are confirmed and the exception is denied for the reasons stated in the recommended decision in support of the rulings.

The following findings and conclusions on material issues are based upon the evidence introduced at the hearing and the record thereof. (The findings and conclusions with respect to each issue are numbered to correspond with the number of that issue as heretofore set forth herein.)

**Issue No. 1.** No change should be made in the present provisions of the order for pricing Class I-C milk sold in New England or elsewhere.

The New England Milk Producers' Association took exception to this conclusion, alleged error in certain of the findings appearing in the recommended decision, and requested a conclusion that the price for Class I-C milk sold in the New England markets shall be the same as the Class I-A price. Certain of the findings in the recommended decision to which exception was taken have been revised as set forth herein. However, the conclusion is unchanged that no revision should be made in the present provisions of the order for the pricing of Class I-C milk sold in New England or elsewhere. Accordingly, the exception and the request for a different conclusion are both denied.

The Class I-C price during the months of January, February, October, November and December 1946, was higher than the Class I-A price, but during the months of March through September 1946 was lower than the Class I-A price, and averaged, for all Class I-C milk in 1946, 6 cents lower than the Class I-A price. During the period July 1941 through February 1947, there were 56 months in which the Class I-C price was lower than the Class I-A price, 11 months in which the Class I-C price was higher than the Class I-A price, and 1 month in which the prices were the same.

The monthly volume of Class I-C milk during the period July 1941 through February 1947 has been relatively large during the seasons of short production, and it is during these short production seasons the difference between the Class I-C and Class I-A prices has been relatively small.

The utilization of pool milk in Class I-C at the present Class I-C price enhances the uniform price received by producers under Order No. 27. Handlers of milk in markets in which Class I-C milk is sold are at liberty to obtain their fluid milk supplies either from pool or from non-pool sources. A substantial portion of the supply for such markets is purchased from non-pool sources, and from producers at prices which are not fixed, pursuant to any state or federal regulations, and at prices approximately equivalent to the uniform price received by producers under Order No. 27.

A substantial volume of pool milk is now utilized in Class I-C, such volume constituting from 6 to 9 percent of the annual volume of pool milk during the years 1942-1946. An increase in the Class I-C price, thus increasing the cost of Class I-C milk in relation to the uniform price, would tend to make it more advantageous for handlers to purchase from pool sources a smaller portion of their fluid milk requirements for markets in which Class I-C milk is now sold. This, in turn, would tend to reduce the uniform price and increase the volume of unregulated milk.

On the other hand, an increase in the Class I-C price would increase the returns to producers on that volume of milk utilized in Class I-C. Evidence in the record is not conclusive as to the precise Class I-C price which will yield the maximum return to producers, that is, at what precise point the loss of Class I-C sales would more than offset the advantage of a higher Class I-C price. However, on the basis of the relationship which prevailed in 1946 between the Class I-C price and the Class I-A price, the possibility of increasing the returns to producers by pricing Class I-C milk at the Class I-A price is limited to 6 cents per hundredweight on the volume of Class I-C milk, which in 1946 constituted about 9 percent of the total pool milk. A reduction in the returns to producers as a result of a decline in the volume of Class I-C milk very readily could be substantially in excess of 6 cents per hundredweight on the present volume of Class I-C milk, the exact amount depending upon the amount of the reduction in the volume of total pool milk, if

any, associated with the loss to the pool of Class I-C sales, and the alternative utilization available for pool milk previously utilized in Class I-C.

The volume of Class I-C milk sold in New England markets is small in relation to the total volume of Class I-C milk, and in relation to the volume of Boston pool milk sold in New England secondary markets. To a greater extent than in the case of total Class I-C sales, the sales of Class I-C milk in New England markets tend to be highest in months when there is the least difference between the Class I-A and Class I-C prices.

Evidence in the record does not show that New York pool milk has been made available to New England markets at a price lower than the price at which Boston pool milk is available in the same market, nor that an increase in the Class I-C price would reduce the competition in New England markets between Boston pool milk and milk from other sources. A Class I-C price high enough to induce New York handlers supplying New England markets to withdraw milk from the New York pool for the purpose of supplying such markets could readily result in a reduction in the price of milk offered in New England markets in competition with Boston pool milk.

**General Findings and Conclusions Relative to Issues 2, 3, and 4.** Producers should receive a return on excess milk (current production of pool milk in excess of current requirements of the marketing area for fluid milk and cream) commensurate with its value for use in the highest value products for which markets and processing facilities are available to them. This concept of pricing is particularly significant in the establishment of class prices for excess milk in a market in which there is market-wide equalization of producer prices.

A handler obtains and holds producers, at least in part, by paying a price that is favorably compared with the price paid by competing handlers. A handler operating in the absence of market-wide equalization must utilize milk in those products yielding him a total return above handling costs sufficient to enable him to pay producers a price high enough to assure him a sufficient supply. On the other hand, a handler operating in a market in which there is market-wide equalization is not subject to such compulsion and the tendency is to utilize milk in those classes yielding him, as a handler, the highest return above established class prices and his handling cost, without the same regard to the relative return to producers.

Failure to establish Class prices for excess milk, in a market in which there is market-wide equalization, which are commensurate with its value for use in the highest value products for which markets and processing facilities are available would make necessary the maintenance of a higher Class I price in order to maintain a uniform price to producers high enough to insure an adequate supply. A Class I price which is higher than necessary would not be in the public interest.

However, it is in the interest of orderly marketing to establish minimum pro-

ducer prices for excess milk at a level which will assure acceptance of all milk offered to handlers by producers (as defined in the order). Substantial seasonal variation in production makes it necessary for handlers to provide facilities for handling milk at certain seasons of the year which are not necessary at other seasons of the year. More facilities and markets for the handling of excess milk are required during months of high production than during months of low production.

The Agricultural Marketing Agreement Act requires the establishment of class prices which are uniform as to all handlers, but does not require the establishment of class prices so as to make it profitable at all times for a handler to utilize milk in any product of his choice.

Exception was taken by the Milk Dealers' Association of Metropolitan New York, Inc., to certain of the findings and conclusions appearing in the recommended decision under the heading of "General Findings and Conclusions Relative to Issues 2, 3, and 4." Consideration of such exceptions has resulted in revision of such findings and conclusions in the manner and to the extent set forth herein. Otherwise, the exceptions and the requests for revision are denied.

Exception was taken to the sentence in the recommended decision which reads, "Producers are entitled to a return on excess milk (milk in excess of marketing area requirements for fluid milk and cream) commensurate with its value for use in the highest value products for which markets and processing facilities are available," and it was requested that the sentence be changed to read, "Producers are entitled to a return on excess milk (milk in excess of marketing area requirements for fluid milk, fluid cream, ice cream and other products required, by Boards of Health regulation, to be made from approved milk, and in excess of the requirements for fluid milk in the surrounding area traditionally served by pool plants) commensurate with its competitive value for use in those products for which markets and processing facilities are available to individual handlers having such excess milk."

That part of the requested revision relating to the parenthetical phrase designed to indicate what was meant by the term "excess milk" has not been made because it would inaccurately indicate the intended meaning of the term as used in this decision. The parenthetical phrase as it appears in the recommended decision has been revised, however, in an attempt to more specifically indicate the intended meaning of the term "excess milk" as used herein. No attempt is here made to define the term "excess milk" for any purpose other than as used herein. An alternative description of "excess milk" for purposes of this decision might be "(all milk other than that for which announcement of the price is required by the order to be made in advance)".

That portion of the requested revision pursuant to which the word "value" would be changed to "competitive value" has not been made largely because of the varying interpretations of which the sentence would be susceptible if the word "competitive" were added. This is not

to say, however, that competitive conditions incident to the disposition of the various milk products are not important considerations in the proper pricing of excess milk.

That part of the requested revision to add the words "to individual handlers having excess milk" is denied since such revision would be directly contrary to the intended meaning as indicated by the addition, instead, of the words "to them" (meaning available to producers). The question as to whether certain markets and processing facilities are available to individual handlers is significant, from the standpoint of fixing appropriate producer prices, only to the extent to which it becomes pertinent to a determination of the markets and processing facilities which are actually available to producers.

The exceptor states that the above quoted sentence to which exception was taken postulates the theory that there is some sort of obligation on the part of handlers to market excess milk in the highest value products for which markets and processing facilities are available. There is no intent to postulate such a theory. On the contrary, other findings and conclusions herein (particularly the second paragraph of this section) constitute recognition that no such obligation exists under a system of market-wide equalization. Such recognition, in turn, lends support to the conclusion to which exception is taken; namely, that producer prices for excess milk should be commensurate with its value for use in the highest value products for which markets and processing facilities are available to producers, rather than based exclusively on the value of the milk as determined by a particular handler for use in a particular product of his choice.

Exception was taken to the paragraph in the recommended decision which reads, "However, it is in the interest of orderly marketing to establish minimum producer prices for excess milk at a level which will assure acceptance by handlers of the necessary reserve supply. Substantial seasonal variation in production makes it necessary for handlers to provide facilities for handling milk at certain seasons of the year which are not necessary at other seasons of the year. More facilities and markets for the handling of excess milk are required during months of high production than during months of low production," and it was requested that the paragraph be revised to read, "However, it is in the interest of orderly marketing to establish minimum producer prices for excess milk at a level which will assure acceptance by handlers of all milk delivered by producers to plants authorized to be in the pool, even though such deliveries may greatly exceed the necessary reserve supply at the time of delivery. Substantial seasonal variation in production makes it necessary for handlers to provide facilities for handling milk at certain seasons of the year which are not necessary at other seasons of the year. Less facilities are required for the handling of, and less facilities are available for the disposition of, excess milk during months of low pro-

duction than are required and are available during months of high production."

The first sentence of the above paragraph as set forth herein has been revised substantially as requested. Evidence in the record indicates that certain facilities for utilization of excess milk are not used at all times during the year. However, the request for the additional finding that less facilities are available during months of low production than are available during months of high production is not granted, for the reason that failure to use certain facilities during months of low production has not been shown to mean that the unused facilities are not available and that they would not be used if needed for the handling of all excess milk.

Exception was taken to the sentence in the recommended decision which reads, "The Agricultural Marketing Agreement Act requires the establishment of class prices which are uniform as to all handlers, but does not require the establishment of class prices so as to make it profitable at all times for a handler to utilize milk in any product of his choice," and it was requested that the sentence be changed to read, "The Agricultural Marketing Agreement Act requires the establishment of a class for any product which the hearing record shows historically has been manufactured in the regulated market, and requires the establishment for such class of a price (uniform as to all handlers) which enables a handler at all times to make a return to producers for that product 'commensurate with its competitive value'."

No justification is found for revision of the above-quoted sentence as it appeared in the recommended decision. Likewise, no basis is found for the additional conclusion requested. Accordingly, both the exception and the requested revision are denied.

*Issue No. 2.* It is concluded that no change should be made in the present pricing provisions for Class II-B milk, but that the "price floor" for Class II-D and Class II-E milk should be the butter value of the milk rather than the butter value plus 10 cents as is now provided. Proposals were made to eliminate the "price floors" now contained in the pricing provisions for Class II-B, Class II-D and Class II-E (§ 927.5 (a) (6) (8) and (9)).

No evidence was presented at the hearing in support of the proposal to eliminate from the present provision of the order for the pricing of Class II-B milk the proviso, "that in no event shall the Class II-B price be lower than the Class II-D price." The evidence in the record with respect to the Class II-D and Class II-E price floor is not pertinent to the question of eliminating the Class II-B price floor.

The utilization of milk in Classes II-D and II-E constitutes an outlet for excess milk which yields a return which compares favorably with the return from other outlets for such milk. Milk utilized in these classes should not be priced under the order so as to deprive producers of the economic advantage resulting from their geographical location in relation to Boston, Philadelphia and other eastern

cream markets. Class II-D and II-E price floors would be too high if such floors resulted in discouraging the utilization of pool milk for cream in Boston and Philadelphia markets at times when pool milk is available for that purpose. There appears to have been instances when this situation has prevailed.

Since cream derived from New York pool milk has constituted, and may in the future constitute, a substantial proportion of the cream sold in Boston and Philadelphia markets, such cream is an important factor in determining the average price of cream in those markets. The value of butterfat in cream sold in Boston and Philadelphia over the value of butterfat in butter tends to be highest when supplies of cream from nearby sources are low, and tends to be the lowest when supplies from nearby sources are plentiful. The establishment of Class II-D and Class II-E prices which are too low in relation to the value of butterfat in cream sold in Boston and Philadelphia could, in itself, depress the price of cream in Boston and Philadelphia. Cream from distant sources is seldom sold in eastern markets at prices returning a lower price for butterfat than the value of such butterfat if utilized for butter.

Milk supplies in the northeast are inadequate to provide the entire requirements of eastern markets for cream during all seasons of the year. This being the case, there appears to be no economic justification for a return to producers for milk used in Class II-D and II-E products which is less than its value for butter in order to retain an outlet which they are not in a position to supply at times when the cream market returns the highest premium over the value of milk for butter.

Exception was taken by the Milk Dealers' Association of Metropolitan New York, Inc., to the sentence in the recommended decision which reads, "It is an economically sound practice for Boston and Philadelphia, as well as other eastern cream markets, to obtain their requirements for fluid cream from nearby sources at times when it is available," and also to the sentence which reads, "The establishment of Class II-D and Class II-E prices which are too low in relation to the value of butterfat in cream sold in Boston and Philadelphia could, in itself, depress the price of cream in Boston and Philadelphia."

The exception to the first of the above quoted sentences was on the basis that it might well be an economically unsound practice, from the standpoint of cream purchasers in eastern markets, for them to purchase New York pool cream when available if such cream is not available at all times, and if such purchase results in making it more difficult to procure eastern market cream requirements from other sources when New York pool cream is unavailable. Since the exception reflects an interpretation other than that intended there has been substituted herein for the sentence in question the following: "Milk utilized in these classes should not be priced under the order so as to deprive producers of the economic advantage resulting from their geographical location in relation to Boston,

Philadelphia and other eastern cream markets."

The exception taken to the second of the above-quoted sentences acknowledges correctness of the sentence as such but constitutes an objection to failure to recognize the same principle in reaching the conclusion on Issue No. 4. Since the sentence is not considered to be applicable or pertinent to the conclusion on Issue No. 4 the exception is denied.

**Issue No. 3.** The present provision of the order for the pricing of Class III milk should be changed to provide for a reduction in price of eight cents per hundredweight during the month of July and a reduction in price of seven cents per hundredweight during the month of October. No change should be made in the present provision of the order establishing a floor price for Class III milk.

The utilization of milk in Class III at prices heretofore in effect and at the present Class III price has constituted, and now constitutes, an outlet for milk in excess of marketing area requirements for fluid milk and cream which yields a return to producers which compares favorably with the return from other outlets for such milk.

The proportion of pool milk in excess of marketing area requirements for fluid milk and cream which was utilized in evaporated milk has declined during the past five years. This decline has been more than offset however by an increase in the proportion of milk used in other Class III products, with the result that the proportion of excess milk utilized in all Class III products increased materially during 1943, 1944 and 1945, and then declined in 1946 but remained higher than during the years 1940, 1941 and 1942. The percentage of excess milk utilized during 1946 in classes returning a lower price than in Class III was about the same as in 1945. There was an increase from 1945 to 1946 in the percentage of excess milk utilized in classes returning a higher price than in Class III. Such increase was approximately equal to the decline in the percentage of excess milk utilized in Class III.

The Class III price, by reason of the amendment to the order effective on October 1, 1946, was reduced 10 cents during the months of March through June, 2 cents during the months of January, February, July, August and September, and was increased 5 cents during the months of October, November and December. This constituted, for the calendar year 1947, an average (unweighted) reduction of 4.2 cents. Considering the seasonal variation, as it existed in 1945, in the production of Class III products, this reduction in the Class III price amounted to about 7 cents per hundredweight. In addition, the cost to handlers for milk of average butterfat test was further reduced, effective October 1, 1946, about 4 cents per hundredweight by revision of the method of computing the Class III butterfat differential.

The Class III price averaged 6.6 cents lower during 1946 than the price of milk utilized for cream in the lowest priced cream class (II-E). Had the present Class III price provision been in effect during all of 1946, the Class III price would have averaged 10.8 cents less than the price

of milk utilized for cream in the lowest priced cream class, and 31.3 cents more than the price of milk utilized for butter. Had the second alternative proposal as set forth in Item No. 35 of the Notice of Hearing been in effect in 1946, the Class III price would have averaged 20.1 cents less than the price of milk utilized for cream in the lowest priced cream class, and only 22 cents more than the price of milk utilized for butter.

Further reduction of the Class III price would increase, by the amount of any such reduction, the operating advantage to handlers of utilizing milk in Class III in relation to utilization in other classes, and would reduce the return to producers on milk utilized in Class III. The return to producers would also be reduced by any increase in the volume of excess milk utilized in Class III in relation to the volume utilized in Classes II-C, II-D, II-E and II-F. The return to producers would be increased by an increase in the volume of excess milk utilized in Class III in relation to the volume utilized in Classes IV-A and IV-B.

The record does not show the relative volumes of milk utilized in the various classes during a full year of operations under the present Class III price provision. Data in the record showing the utilization of excess milk prior to the reduction in the Class III price to its present level is not necessarily conclusive as to the choices to be exercised by handlers in the utilization of excess milk during later periods. Such data, however, reveal no shift from Class III to lower value products in the utilization of excess milk.

However, the volume of excess milk is sufficiently large during the months of July and October to indicate a reasonable possibility, at least, that a lower price for Class III milk during these months would result in the utilization in Class III (a relatively high value use) of a larger portion of the excess milk than would be utilized at the present price. The Class III price reduction herein provided for the month of October also gives recognition to assertions of handlers that available facilities other than in Classes IV-A and IV-B are inadequate during the month of October.

Exception was taken by the Milk Dealers' Association of Metropolitan New York, Inc., to the conclusion as set forth in the recommended decision that, "No change should be made in the present provision of the order for the pricing of Class III milk, except to substitute for the present floor price based on the price of butter in Chicago a floor price equal to the Class IV-A price plus 91.25 percent of the V-B price."

The exception to that portion of the conclusion relating to a substitute floor price for Class III milk was on the basis that the record contains no evidence to justify such a change. Examination of the hearing record fails to reveal direct testimony adequate to support the recommended change. The exception is granted and the conclusion herein is revised accordingly.

The reason advanced for the exception to the conclusion that no change should be made in the present provision

for pricing Class III milk (other than the floor price) was that "the evidence in the record clearly shows that the present Class III price does not enable handlers manufacturing Class III products to make a return to producers on excess milk manufactured in Class III products 'commensurate with its value,' much less 'commensurate with its competitive value.'" Consideration of this exception and further analysis of the hearing record has resulted in revision of the findings and conclusions in the manner and to the extent set forth herein. Otherwise the exception and the requested substitute conclusions are denied.

**Issue No. 4.** Price quotations for U. S. Grade AA, or U. S. 93-score butter should not be substituted for price quotations for U. S. Grade A, or U. S. 92-score butter in the Class IV-A price formula. No change should be made in the present Class IV-A and IV-B price provisions, except that the present price floors now applicable during the months of October through February should be applicable only during the months of October, November, and December.

Price quotations for U. S. Grade AA or U. S. 93-score butter average higher than for U. S. Grade A or U. S. 92-score butter. The use of price quotations for U. S. Grade AA or U. S. 93-score butter in the Class IV-A price formula would result in a higher Class IV-A price. Evidence in the record is lacking concerning other essential factors affecting the Class IV-A price.

The utilization of excess milk in cheddar cheese (and other Class IV-B cheese) returns a price to producers lower than on milk utilized in any other class, and is thus the least desirable use for pool milk. Facilities for the utilization of excess milk for the manufacture of cheddar cheese are not utilizing at the present Class IV-B price all excess milk not utilized in higher value classes. It has not been shown that a lower Class IV-B price is necessary to assure utilization of all excess milk.

The percentage of excess pool milk utilized in Class IV-B, except for the year 1942, has remained relatively constant during the period 1940-1946. About 87 percent of the milk utilized in Class IV-B during the year 1946 was so utilized during the months of April through July.

The cost of manufacturing cheese has increased substantially since the present Class IV-B price formula has been in effect. Evidence in the record is lacking, however, concerning other essential factors affecting the Class IV-B price. The market value of cheese made from Class IV-B milk cannot be determined from the hearing record.

Proposals were made (Items 38 and 39 of Notice of Hearing) to eliminate the present provisions in the Class IV-A and IV-B pricing provisions under which such prices are established during the months of October through February at not less than the Class II-E and Class III prices, respectively.

The Class IV-A price, by reason of the proviso, ranged higher than it otherwise would have been by from 10 (in February 1947) to 35.7 (in January 1947) averaging 21 cents, and the Class IV-B price,

## PROPOSED RULE MAKING

by reason of the proviso, ranged higher than it otherwise would have been by from 25 (in October 1946) to 97.9 cents (in December 1946), and averaged 60.5 cents higher.

The present Class IV-A and IV-B pricing provisions constitute an incentive for the utilization of milk in other classes during the months of October through February.

The record shows that a total of 10.6 million pounds of milk was utilized in Classes IV-A and IV-B during the period October 1946-February 1947. Facilities needed for the utilization of excess milk are greater during the months of January and February than during the months of October, November and December. Approximately 70 percent of the milk utilized in Classes IV-A and IV-B during the period October 1946-February 1947 was so utilized during the months of January and February.

The fact that some milk was utilized in Classes IV-A and IV-B during the period October 1946-February 1947 plus other evidence in the hearing record is inconclusive as to whether the milk so utilized could or could not have been otherwise utilized. Handlers contended that no other outlets were available.

However, the record does show that the milk equivalent of cream received at Boston and Philadelphia from midwestern sources during the period October 1946-February 1947 was several times larger than the volume of milk utilized during that period in Classes IV-A and IV-B, and that facilities exist in the milkshed for the utilization in classes other than IV-A and IV-B of a volume of milk very substantially in excess of the volume utilized in Classes IV-A and IV-B during the months of October 1946-February 1947. There is no reason to believe that facilities through which approximately 94 million pounds of excess milk were processed in June 1946 ceased to exist after that date. The record shows that butter is one of the sources of butterfat for ice cream, and that the Class IV-A price was lower than the Class II-B price during the period October 1946-February 1947.

The record does not show prices at which New York handlers offered cream in eastern markets during the months of October 1946-February 1947, nor the prices which handlers in eastern cream markets offered to pay New York handlers for cream during that period.

The market for fluid milk has not been shown to have been demoralized by reason of existence of the present Class IV-A and Class IV-B pricing provisions. The possibility of transportation tie-ups, strikes, severe storms, etc. exists as hazards to which handlers and producers are subject, but does not constitute justification for producer prices under which all risk involved in the marketing process is borne by producers.

Exception was taken by the Milk Dealers' Association of Metropolitan New York, Inc., to the conclusion that "No change should be made in the present Class IV-A and IV-B price provisions, except that the present price floors now applicable during the months of October through February should be applicable

only during the months of October, November and December," and requested that the conclusion be reached that "The present price floors now applicable to Classes IV-A and IV-B during the months of October through February should no longer be applicable during any month of the year." Certain of the findings appearing in the recommended decision, after consideration of the exception and further analysis of the record, have been revised as set forth herein. However, the exception to the recommended conclusion and the request for a substitute conclusion are both denied on the basis of the findings set forth in this decision.

Exception to the above quoted conclusion concerning Class IV-A and IV-B price floors was taken by the Metropolitan Cooperative Milk Producers Bargaining Agency, Inc., on the basis that the Class IV-A and IV-B price floors constitute an improper, inappropriate and unnecessary method of insuring shipment of fluid milk to the marketing area during the period of short production. The reasons advanced for the exception reflect a misconception of the purpose of such pricing provisions and a conception contrary to the primary purposes of such provisions as reflected in the findings and conclusions set forth in this decision. Such reasons inadequately support the exception and, therefore, it is denied.

*Issue No. 5.* No change should be made in the method now provided in the order for calculating the butterfat differential used in connection with payments to producers.

It was contended that the present method of computing the producer butterfat differentials is inequitable in that it allegedly does not result in differentials which accurately represent the true value of butterfat in producer milk.

The butterfat differentials paid by handlers for Classes I-A, I-B and I-C milk are fixed by the order at 4 cents for each one-tenth pound of butterfat above or below the basic test of 3.5 percent. The butterfat differential paid by handlers for each of the other classes of milk increases or decreases in accordance with changes in the market value of butterfat in each class. When, as at present, the butterfat differentials established for all classes of milk, other than Classes I-A, I-B and I-C are higher than 4 cents per point, the producer butterfat differentials tend to be reduced by reason of the lower fixed differential of 4 cents on Class I milk, and is lowest during months in which the proportion of Class I milk is highest.

If the differentials thus paid by handlers for butterfat in the various classes of milk correctly reflect the true value of such butterfat, their weighted average is the true value of butterfat in producers' milk as utilized in the market. The present producer butterfat differential is such a weighted average, and is not materially affected by the use of the pounds of butterfat for the preceding month in computing the weighted average.

The present method results in a producer differential which reflects the market value of butterfat in the pool above

or below the basic test, and is approximately equal to the average butterfat differential paid by handlers on all pool milk.

A proposal was made to adopt substantially the same method of computing the producer butterfat differential as is provided under the Boston order. Handlers under the Boston order pay a butterfat differential on all classes of milk which is the same as the producer butterfat differential. If handlers under the New York order paid a differential on all Class I milk equal to the differential paid by Boston handlers on Class I milk, the New York producer butterfat differential would be higher than at present, and would more nearly approximate the Boston producer butterfat differential and the differential which would result from adoption of the proposals made at the hearing.

Producers under both the Boston order and under the New York order at the present time receive in the form of butterfat differentials approximately the same amount of money as is paid by handlers for butterfat in excess of the basic test. The difference between the Boston and New York producer butterfat differentials is due to differences in determining the value of butterfat in the various classes of milk, rather than to any basic difference between the two methods of computing the producer butterfat differential.

Each of the two proposals which were made would result in current producer butterfat differentials higher than the weighted average of class differentials paid by handlers. The proposed producer differentials would thus be higher than the value of butterfat in producer milk as used in the market. Such a result was not justified by the record.

Exception was taken by the New York State Guernsey Breeders' Co-op. Inc., to the conclusion that no change should be made in the present method of calculating the producer butterfat differential. Consideration of the reasons advanced for the exception and further analysis of the record fails to justify a different conclusion. The exception is denied.

*Issue No. 6.* No change should be made in the present provision for pricing Class V-B milk.

Evidence in the record is inadequate to support a change in the price of Class V-B milk. Evidence is also inconclusive as to the amount of the adjustment in the formula necessary to compensate for the difference in the Class V-B price which would result from the substitution of United States Department of Agriculture quotations for "Producers' Price Current" quotations, or from the substitution of quotations for nonfat dry milk solids for human consumption only, for the quotations now used.

*Issue No. 7.* Section 927.9 (h) of the order should be amended to make equalization payments for milk or milk products other than from producer sources applicable to frozen desserts and homogenized mixtures used commercially in frozen desserts in the same manner as such payments are now applicable to milk, cultured or flavored milk drinks, cream, plain condensed and skim milk. No change should be made in this sec-

tion of the order to make the payments inapplicable in the event of a declaration of emergency by a health authority having jurisdiction in the marketing area, or to make payments inapplicable to Class II-B products.

Payments under § 927.9 (h) are now applicable to Class II-B cream and plain condensed milk brought into the marketing area and used in the manufacture of frozen desserts or homogenized mixtures. Payments are at present not applicable, however, if these same ingredients are used in the manufacture of frozen desserts or homogenized mixtures outside of the marketing area and brought into the marketing area in the form of frozen desserts or homogenized mixtures. A potential condition of inequity among handlers therefore prevails.

The term "used commercially in frozen desserts" is designed to indicate that the payments are intended to apply only to homogenized mixtures used commercially in the production of frozen desserts rather than to preparations sold directly to the consumer for home manufacture of frozen desserts.

As to the proposal to eliminate the present provision for payments on Class II-B products, the evidence shows that either pool plans or nonpool plants may constitute sources of such products and may be fully approved as such sources by marketing area health authorities. Absolute equality among handlers in their total cost of butterfat used in New York City ice cream cannot be assured under the order largely due to the existence of a variety of sources from which such butterfat may be procured. However, provision for payments on Class II-B products from nonpool sources tends to minimize the differences in cost of pool and nonpool butterfat, and tends to provide a measure of assurance that purchasers of pool butterfat, the historical source of virtually all butterfat used in New York City ice cream, are not placed at an economic disadvantage compared with purchasers of nonpool butterfat.

It was contended that § 927.9 (h) of the order is illegal because it allegedly violates section 8c (5) (G) of the act and it is not otherwise authorized by the act. Section 927.9 (h) of Order 27 is intended to implement and supplement the other provisions of the order by minimizing the danger that unpriced and unpooled milk would otherwise compete unfairly with pooled milk priced under the order and would perhaps displace it because of cost considerations. The record does not show that this provision is unnecessary or that it does not otherwise come within the authority specified in section 8c (7) (D) of the act. Furthermore, this provision of the order does not prohibit or limit the marketing of milk or its products in the marketing area within the meaning of section 8c (5) (G) of the act.

Elimination of the payments for milk or milk products from nonpool sources in the event of a declaration of emergency by a marketing area health authority would leave no assurance that handlers could not obtain such milk or milk products from nonpool sources at a cost substantially less than from pool

sources for use in the same products. The order at present contains a provision (§ 927.9 (h) (2) (iv)) under which the rate of payment on cream and plain condensed milk is the difference between the Class II-A or Class II-B price, as the case may be, and the Class II-E price in the event of a finding by the market administrator that there is an inadequate supply of cream or plain condensed milk in the marketing area and that such products are available from nonpool sources.

No justification is found in the record for substituting a determination of a marketing area health authority for the finding of the market administrator as to the adequacy of the supply. The record does not show that the cost to handlers of supplies of cream or plain condensed milk from nonpool sources in the event of an inadequate supply from pool sources would be higher than the weighted average Boston cream price on which the Class II-E price is based. Accordingly, the payment during periods of inadequate supply of the difference between the II-A or II-B price and the II-E price on supplies of cream and plain condensed milk from nonpool sources would merely tend to equalize the cost as between handlers purchasing supplies from pool sources and those obtaining supplies from nonpool sources. It is extremely unlikely that supplies from regularly approved sources will be inadequate to meet the requirements of the marketing area for milk, skim milk, or cultured or flavored milk drinks. Accordingly, the necessity for making provision for a rate of payment on these products different from the rate now provided is not apparent.

Exception was taken by the Association of Ice Cream Manufacturers of New York State to the recommended marketing agreement and order in that it fails to exclude from § 927.9 (h) of the order all references to Class II-B milk and milk products. This exception is denied on the basis that the marketing agreement and order otherwise would be inconsistent with the finding and conclusions herein set forth.

Exception was also taken by the Association of Ice Cream Manufacturers of New York State to the conclusions set forth in the first and last paragraphs of the recommended decision under issue No. 7 (exceptions 1, 3 and 7) and it was requested that other conclusions be substituted. The findings herein set forth adequately support the conclusions to which exception was taken. Reasons advanced are inadequate to support the exceptions and the proposed substitute conclusions. Accordingly, each of the exceptions and each of the proposed substitute conclusions is denied.

Exceptions 2, 4, 5 and 6 of the Association of Ice Cream Manufacturers of New York State allege error in making certain findings and include requests for substitute findings. Consideration of these exceptions has resulted in revision as herein set forth of the finding to which exception No. 4 refers. Otherwise each of the exceptions and each of the requests for substitute findings is denied by reason of being either immaterial to

the issue or unsupported by evidence in the record and contrary to findings set forth in this decision.

Exception was also taken by the Babylon Milk and Cream Company to certain of the findings and conclusions on issue No. 7, and to the marketing agreement and order recommended to effectuate such findings and conclusions. The exception urges consideration of alleged additional facts which admittedly are not in the hearing record, and requests that findings and conclusions be made on issues which were not considered at the hearing. All of such requests and related exceptions are denied. It is also alleged that § 927.9 (h) violates section 8c (5) (C) of the act, and contains an implied request for a finding to that effect. Findings and conclusion in this decision are to the contrary. The exception is denied.

No. 8—General. (a) The proposed marketing agreement and the proposed amendments to the order, as heretofore amended, and all of the terms and conditions thereof will tend to effectuate the declared policy of the act;

(b) The proposed marketing agreement and the proposed amendments to the order, as heretofore amended, regulates the handling of milk in the same manner and is applicable only to persons in the respective classes of industrial and commercial activity specified in the said tentatively approved marketing agreement upon which the hearings have been held; and

(c) The prices calculated to give milk produced for sale in the said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to section 2 and section 8 (e) of the act are not reasonable in view of the price of feed, available supplies of feeds, and other economic conditions which affect market supply and demand for such milk, and the minimum prices specified in the proposed marketing agreement and the proposed amendments to the order, as heretofore amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest.

Marketing agreement and order. Annexed hereto and made a part hereof are two documents entitled "Marketing Agreement Regulating the Handling of Milk in the New York Metropolitan Milk Marketing Area" and "Order Amending the Order, As Amended, Regulating the Handling of Milk in the New York Metropolitan Milk Marketing Area" which have been decided upon as the appropriate and detailed means of effecting the foregoing conclusions. These documents shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

It is hereby ordered that all of this decision, except the attached marketing agreement, be published in the *FEDERAL REGISTER*. The regulatory provisions of said marketing agreement are identical with those contained in the attached

order amending the order, as amended, which will be published with the decision.

This decision filed at Washington, D. C., this 28th day of January 1948.

[SEAL] CLINTON P. ANDERSON,  
Secretary of Agriculture.

*Order Amending the Order as Amended, Regulating the Handling of Milk in the New York Metropolitan Milk Marketing Area*<sup>1</sup>

§ 927.0 Findings upon the basis of the hearing record. Pursuant to Public Act No. 10, 73d Congress (May 12, 1933) as amended and as reenacted and amended by the Agricultural Marketing Act of 1937, as amended (hereinafter referred to as the "act") and the rules of practice and procedure covering the formulation of marketing agreements and orders (7 CFR, Supps. 900.1 et seq., 12 F. R. 1159, 4904) a public hearing was held upon certain proposed amendments to the tentatively approved marketing agreement and to the order, as amended, regulating the handling of milk in the New York metropolitan milk marketing area. Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(a) The said order, as heretofore amended and as hereby further amended, and all of the terms and conditions of said order, as so amended and as hereby further amended, will tend to effectuate the declared policy of the act;

(b) The prices calculated to give milk produced for sale in said marketing area a purchasing power equivalent to the purchasing power of such milk as determined pursuant to sections 2 and 8 (e) of the act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supplies of and demand for such milk and the minimum prices specified in the order as heretofore amended, and as hereby further amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The said order, as heretofore amended and as hereby further amended, regulates the handling of milk in the same manner as and is applicable only to persons in the respective classes of industrial and commercial activity specified in a marketing agreement upon which hearings have been held.

*Order Relative to Handling.* It is therefore ordered that on and after the effective date hereof, the handling of milk in the New York metropolitan milk marketing area shall be in conformity to and in compliance with the terms and conditions of the aforesaid order, as heretofore amended and as hereby further amended; and the aforesaid order, as so amended, is hereby further amended as follows:

1. Amend § 927.5 (a) (8) by changing the proviso therein to read:

<sup>1</sup> This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

*Provided*, That in no event shall the Class II-D price be lower than an amount computed by the market administrator as follows: From the average of the highest prices reported daily during such month by the United States Department of Agriculture for U. S. Grade A or U. S. 92-score butter at wholesale in the New York market, deduct four cents, add 20 percent, and multiply by 3.5.

2. Amend § 927.5 (a) (9) by changing the proviso therein to read:

*Provided*, That in no event shall the Class II-B price be lower than an amount computed by the market administrator as follows: From an average of the highest prices reported daily during such month by the United States Department of Agriculture for the U. S. Grade A, or U. S. 92-score butter at wholesale in the New York market, deduct four cents, add 20 percent, and multiply by 3.5.

3. Amend § 927.5 (a) (11) by changing that portion thereof preceding the last proviso therein to read:

(11) For Class III milk the price during each month shall be the average, computed by the market administrator, of prices as reported to the United States Department of Agriculture, paid during such month to farmers for 3.5 percent milk at evaporated milk plants at locations listed in this subparagraph: *Provided*, That the Class III price during the months of January, February, August, September and October shall be such average plus eight cents, and during the months of November and December shall be such average plus 15 cents:

4. Amend § 927.5 (a) (12) by changing the proviso therein to read:

*Provided*, That in no event shall the Class IV-A price during the months of October, November and December be less than the Class II-E price.

5. Amend § 927.5 (a) (13) by changing the last proviso therein to read:

*Provided further* That in no event shall the Class IV-E price during the months of October, November and December be less than the Class III price.

6. Amend § 927.5 (c) (2) by changing the proviso therein to read:

*Provided*, That in no case shall the amount subtracted reduce the Class II-D price at any plant below an amount computed by the market administrator as follows: From the average of the highest prices reported daily during such months by the United States Department of Agriculture for U. S. Grade A or U. S. 92-score butter at wholesale in the New York market, deduct four cents, add 20 percent, and multiply by 3.5.

7. Amend § 927.5 (c) (3) to read:

(3) The market administrator shall, from time to time, determine and publicly announce for each pool plant a zone based on its shortest highway mileage distance from the State House in Boston, Massachusetts, as computed from the latest mileage guide issued by the Household Goods Carriers' Bureau, Agent, Washington, D. C. The minimum prices for Class II-E, Class II-F and

during the months of October, November and December, Class IV-A milk shall be subject to the minus differential set forth in the following table applicable to the location of the plant at which milk was received from producers:

Miles:	Cents	Miles:	Cents
0-250-----	-5.2	351-400-----	-8.2
251-300-----	-6.2	401-450-----	-9.2
301-350-----	-7.2		

*Provided*, That in no case shall the amount subtracted reduce the Class II-E, the Class II-F, or, during the months of October, November and December, the Class IV-A price at any plant below an amount computed by the market administrator as follows: From the average of the highest prices reported daily during such months by the United States Department of Agriculture for U. S. Grade A or U. S. 92-score butter at wholesale in the New York market, deduct four cents, add 20 percent, and multiply by 3.5.

8. Amend § 927.9 (b) (1) and (2) (ii) and (iv) to read:

(1) Payment shall be made by handlers to producers, through the producer-settlement fund, for milk, cultured or flavored milk drinks, cream, plain condensed milk, frozen desserts or homogenized mixtures used commercially in frozen desserts, or skim milk, which milk and milk product meets each of the following provisions: (i) It was derived from milk received at zone plant from dairy farmers (other than the handler operating such plant) who are not producers; (ii) it was received at a plant in, or delivered to a purchaser in the marketing area, or was received at a pool plant outside the marketing area and assigned either to shipments to the marketing area of milk, cultured or flavored milk drinks, cream, plain condensed milk, frozen desserts or homogenized mixtures used commercially in frozen desserts, or skim milk, or to plant loss; and (iii) the milk or milk equivalent of the butterfat is classified as Class I-A, Class II-A, or Class II-B, or the skim milk is classified as Class V-A.

(ii) If the milk or milk product is derived from milk the handling of which is not regulated by another order issued pursuant to the act, the amount of payment shall be as follows: for milk, or for cultured or flavored milk drinks containing 3.0 percent butterfat or more, the difference between the value of such milk or cultured or flavored milk drinks at the Class I-A price in the 201-210 mile zone and the value computed at the Class IV-A and Class V-B prices; except as provided in subdivision (iv) of this subparagraph, for cream, plain condensed milk, frozen desserts or homogenized mixtures used commercially in frozen desserts, or for cultured or flavored milk drinks containing less than 3.0 percent butterfat, the difference between the value of the milk equivalent of such cream, plain condensed milk, frozen desserts or homogenized mixtures used commercially in frozen desserts, or milk drinks at the appropriate class (II-A or II-B) price in the 201-210 mile zone and at the Class IV-A price (milk equivalent in each case to be computed on the basis

of milk containing 3.5 percent butterfat) and for skim milk (either as skim milk or in cultured or flavored milk drinks) the difference between the value computed at the Class V-A price in the 201-210 mile zone and the Class V-B price.

(iv) If the market administrator finds that there is an inadequate supply of cream, plain condensed milk or frozen

desserts or homogenized mixtures used commercially in frozen desserts in the marketing area and that such products are available from nonpool sources, he may declare an emergency for a period ending not more than three months from the date of such declaration, in which case the payment during the period of such declared emergency shall be the difference between the value of the milk

equivalent of such cream, plain condensed milk or frozen desserts or homogenized mixtures used commercially in frozen desserts at the appropriate class (II-A or II-B) price in the 201-210 mile zone and at the Class II-E price in the 0-250 mile zone from Boston.

[F. R. Doc. 48-831; Filed, Jan. 30, 1948; 8:53 a. m.]

## NOTICES

### DEPARTMENT OF THE INTERIOR

#### Bureau of Land Management

##### ARIZONA

##### CLASSIFICATION ORDER

JANUARY 26, 1948.

1. Pursuant to the authority delegated to me by the Secretary of the Interior by Order No. 2325, dated May 24, 1947 (43 CFR 4.275 (b) (3) 12 F. R. 3566) I hereby classify under the small tract act of June 1, 1938 (52 Stat. 609), as amended July 14, 1945 (59 Stat. 467, 43 U. S. C. sec. 682a) as hereinafter indicated, the following described public lands in the Phoenix, Arizona, land district, embracing 680 acres:

##### SMALL TRACT CLASSIFICATION NO. 136

##### ARIZONA NO. 12

For leasing, for all of the purposes mentioned in the act except business sites:

T. 7 N., R. 5 W., G. & S. R. M.

Sec. 11, SW $\frac{1}{4}$ SE $\frac{1}{4}$ .

Sec. 15, all.

2. These lands are located in Maricopa County, Arizona, from three-quarters of a mile to three miles west and south of the town of Wickenburg and approximately 55 miles northwest of Phoenix. The climate of this area is typical of the desert. The community of Wickenburg offers many facilities from which residents of this area may benefit. It not only affords a trade and social center but transportation service as well, being served by the Santa Fe and Southern Pacific railroads. Favorable weather conditions, together with other factors, have made this general area attractive to many persons, particularly those who require a dry climate for health reasons.

3. Water supplies in this area must be developed from underground sources. With the experiences of developed wells in the area as a basis, it has been estimated that water may be reached in wells of 200 to 250 feet in depth. Wickenburg has one of the best water supplies of any town in the State. Water is obtained in wells from the underflow of the Hassayampa River, and is known for its purity and softness, or the absence of minerals. Some persons may prefer to haul water from the established sources. In general, water should not be a difficult problem. However, it may prove desirable to undertake the development of wells as group projects.

4. Pursuant to § 257.9 of the Code of Federal Regulations (43 CFR part 257, Circ. 1647, May 27, 1947, and Circ. 1665,

November 19, 1947), a preference right to a lease is accorded to those applicants whose applications (a) were regularly filed, under the regulations issued pursuant to the act, prior to 4:00 p. m. on November 26, 1946, and (b) are for the type of site for which the land subject thereunder has been classified. As to such applications, this order shall become effective upon the date on which it is signed.

5. As to the land not covered by the applications referred to in paragraph 4, this order shall not become effective to permit the leasing of such land under the small tract act of June 1, 1938, cited above, until 10:00 a. m. on March 29, 1948. At that time such land shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for other preference-right filings.* For a period of 90 days from 10:00 a. m. on March 29, 1948 to close of business on June 28, 1948, inclusive, to (1) application under the small tract act of June 1, 1938, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747) as amended May 31, 1947 (61 Stat. 123, 43 U. S. C. sec. 279) <sup>1</sup> subject to the requirements of applicable law, and (2) application under any applicable public land law, based on prior existing valid settlement right and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Application by such veterans shall be subject to claims of the classes described in subdivision (2).

(b) *Advance period for simultaneous preference-right filings.* All applications by such veterans and persons claiming preference rights superior to those of such veterans filed at or after 4:00 p. m. on November 26, 1946, together with those presented at 10:00 a. m. on March 29, 1948 shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public land laws.* Commencing at 10:00 a. m. on June 29, 1948 any of the land remaining unappropriated shall become subject to application under the small tract act by the public generally.

<sup>1</sup>As used herein the term "veterans" includes other persons entitled to credit for service under the said act of September 27, 1944, as amended. Such other persons shall file evidence of their right to credit in accordance with 43 CFR 181.38.

(d) *Advance period for simultaneous non-preference-right filings.* Applications under the small tract act by the general public filed at or after 4:00 p. m. on November 26, 1946, together with those presented at 10:00 a. m. on June 29, 1948, shall be treated as simultaneously filed.

6. Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

7. All applications referred to in paragraphs 4 and 5, which shall be filed in the district office at Phoenix, Arizona, shall be acted upon in accordance with the regulations contained in section 295.8 of Title 43 of the Code of Federal Regulations (Circ. 324, May 22, 1914, 43 L. D. 254), to the extent that such regulations are applicable. Applications under the small tract act of June 1, 1938, shall also be governed by the regulations contained in part 257 of Title 43 of the Code of Federal Regulations.

8. Lessees under the small tract act of June 1, 1938, will be required, within a reasonable time after execution of the lease, to construct upon the leased land, to the satisfaction of the appropriate officer of the Bureau of Land Management authorized to sign the lease, improvements which, in the circumstances are presentable, substantial, and appropriate for the use for which the lease is issued. Leases will be for a period of 5 years at an annual rental of \$5, payable for the entire lease period in advance of the issuance of the lease.

9. All of the lands will be leased in tracts of approximately 5 acres, each being approximately 330 by 660 feet, the longer dimension in sec. 11 extending in an east-west direction and in a north-south direction in sec. 15. The tracts, whenever possible must conform in description with the rectangular system of surveys as one compact unit; i. e., the E $\frac{1}{2}$  or W $\frac{1}{2}$  of a quarter-quarter-quarter section in sec. 11, and the N $\frac{1}{2}$  or S $\frac{1}{2}$  of a quarter-quarter-quarter section in sec. 15.

10. Preference right leases referred to in paragraph 4 will be issued for the land described in the application, irrespective of the direction of the tract, provided the tract conforms or is made to con-

form to the area and dimensions specified above.

11. Where only one five-acre tract in a 10-acre subdivision is embraced in a preference right application, the Acting Manager is authorized to accept applications for the remaining five-acre tract extending in the same direction so as to fill out the subdivision, notwithstanding the direction of the tract may be contrary to that specified in paragraph 9.

12. All inquiries relating to these lands should be addressed to the Acting Manager, District Land Office, Phoenix, Arizona.

FRED W. JOHNSON,  
Director.

[F. R. Doc. 48-874; Filed, Jan. 30, 1948;  
8:46 a. m.]

[1074497]

CALIFORNIA

NOTICE OF FILING OF PLATS OF SURVEY  
ACCEPTED JULY 21, 1945

JANUARY 26, 1948.

Notice is given that the plats of (1) dependent resurvey of the boundaries of secs. 32 and 33, T. 6 S., R. 10 E., and secs. 4 and 5, T. 7 S., R. 10 E., M. D. M., California, executed for the purpose of providing designation and area for unsurveyed swamplands, delineating a retrace and reestablishment of the lines of the original survey as shown upon the plat approved January 31, 1855; and, (2) extension surveys of lines subdividing lands bordering the Merced River, including lands hereinafter described, will be officially filed in the District Land Office, Sacramento, California, effective at 10:00 a. m. on March 29, 1948.

At that time the lands hereinafter described shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection as follows:

(a) *Ninety-day period for preference-right filings.* For a period of 90 days from March 29, 1948, to June 28, 1948, inclusive, the public lands affected by this notice shall be subject to (1) application under the homestead or the desert land laws, or the small tract act of June 1, 1938 (52 Stat. 609, 43 U. S. C. 682a) as amended, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. Sup. 279-283) subject to the requirements of applicable law, and (2) application under any applicable public-land law, based on prior existing valid settlement rights and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Application by such veterans shall be subject to claims of the classes described in subdivision (2).

(b) *Twenty-day advance period for simultaneous preference-right filings.* For a period of 20 days from March 9, 1948, to March 29, 1948, inclusive, such veterans and persons claiming preference rights superior to those of such veterans, may present their applications, and all such applications, together with those presented at 10:00 a. m. on March

29, 1948, shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public-land laws.* Commencing at 10:00 a. m. on June 29, 1948, any of the lands remaining unappropriated shall become subject to such application, petition, location, or selection by the public generally as may be authorized by the public-land laws.

(d) *Twenty-day advance period for simultaneous non-preference-right filings.* Applications by the general public may be presented during the 20-day period from June 9, 1948, to June 29, 1948, inclusive, and all such applications, together with those presented at 10:00 a. m. on June 29, 1948, shall be treated as simultaneously filed.

Veterans shall accompany their applications with certified copies of their certificates of discharge, or other satisfactory evidence of their military or naval service. Persons asserting preference rights, through settlement or otherwise, and those having equitable claims, shall accompany their applications by duly corroborated affidavits in support thereof, setting forth in detail all facts relevant to their claims.

Applications for those lands, which shall be filed in the District Land Office, Sacramento, California, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations (Circular No. 324, May 22, 1914, 43 L. D. 254) and part 296 of that title, to the extent that such regulations are applicable. Applications under the homestead laws shall be governed by the regulations contained in Parts 166 to 170, inclusive, of title 43 of the Code of Federal Regulations and applications under the desert land laws and the small tract act of June 1, 1938, shall be governed by the regulations contained in Parts 232 and 257, respectively, of that title.

Inquiries concerning these lands shall be addressed to the District Land Office, Sacramento, California.

The lands affected by this notice are described as follows:

MOUNT DIABLO MERIDIAN

T. 6 S., R. 10 E.,  
Sec. 32, lot 3;  
Sec. 33, lots 1, 2, and 3.  
T. 7 S., R. 10 E.,  
Sec. 4, lots 5, 6, 7, and 8;  
Sec. 5, lots 6 and 7.

The described area aggregates 91.81 acres.

The lands are included in Swamp Land Application Sacramento 032102 filed March 2, 1939 by the State of California.

It appears from the plats of survey that the lands involved are swamp and overflowed and inured to the State of California in accordance with the provisions of the act of September 28, 1850 (9 Stat. 519) and July 23, 1866 (14 Stat. 218). Applications adverse to the State in conflict with swamp land claims will be governed by § 271.2 of Title 43 of the Code of Federal Regulations.

FRED W. JOHNSON,  
Director

[F. R. Doc. 48-875; Filed, Jan. 30, 1948;  
8:46 a. m.]

FEDERAL POWER COMMISSION

[Docket No. G-975]

TENNESSEE GAS TRANSMISSION CO.

ORDER FIXING DATE OF HEARING

JANUARY 27, 1948.

Upon consideration of the application filed December 3, 1947, and the supplement thereto filed on January 12, 1948, by Tennessee Gas Transmission Company (Applicant), a Delaware corporation, having its principal place of business at Houston, Texas, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural-gas facilities, subject to the jurisdiction of the Commission, as fully described in such application on file with the Commission and open to public inspection;

It appearing to the Commission that:

This proceeding is a proper one for disposition under the provisions of Rule 32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure (as amended June 16, 1947), Applicant having requested that its application be heard under the shortened procedure provided by the aforesaid rule for non-contested proceedings, and no request to be heard, protest or petition having been filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on December 23, 1947 (12 F. R. 8728)

The Commission, therefore, orders that:

(a) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure (as amended June 16, 1947), a hearing be held on February 11, 1948, at 9:45 a. m. (e. s. t.) in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue, NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however,* That the Commission may, after a non-contested hearing, forthwith dispose of the proceeding pursuant to the provisions of Rule 32 (b) of the Commission's rules of practice and procedure (as amended June 16, 1947)

(b) Interested State commissions may participate as provided by Rule 8 and 37 (f) (18 CFR 1.8 and 1.37 (f)) of the said rules of practice and procedure.

Date of issuance: January 27, 1948.

By the Commission.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 48-876; Filed, Jan. 30, 1948;  
8:46 a. m.]

[Docket No. G-980]

MOUNTAIN FUEL SUPPLY CO.

ORDER FIXING DATE OF HEARING

JANUARY 27, 1948.

Upon consideration of the application filed December 8, 1947, by Mountain Fuel

Supply Company (applicant) a Utah corporation with its principal place of business at Salt Lake City, Utah, for a certificate of public convenience and necessity pursuant to section 7 of the Natural Gas Act, as amended, authorizing the construction and operation of certain natural-gas facilities subject to the jurisdiction of the Commission, as fully described in such application on file with the Commission, and open to public inspection;

It appearing to the Commission that:

(1) Temporary authorization to construct and operate the requested facilities was granted by the Commission on December 19, 1947.

(2) This proceeding is a proper one for disposition under the provisions of Rule 32 (b) (18 CFR 1.32 (b)) of the Commission's rules of practice and procedure (as amended June 16, 1947) applicant having requested that its application be heard under the shortened procedure provided by the aforesaid rule for non-contested proceedings, and no request to be heard, protest or petition having been filed subsequent to the giving of due notice of the filing of the application, including publication in the FEDERAL REGISTER on January 7, 1948 (13 F. R. 100-101)

The Commission, therefore, orders that:

(a) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, as amended, and the Commission's rules of practice and procedure (as amended June 16, 1947) a hearing be held on February 17, 1948, at 9:30 a. m. (e. s. t.) in the Hearing Room of the Federal Power Commission, 1800 Pennsylvania Avenue NW., Washington, D. C., concerning the matters involved and the issues presented by such application: *Provided, however* That the Commission may, after a noncontested hearing, forthwith dispose of the proceeding pursuant to the provisions of Rule 32 (b) of the Commission's rules of practice and procedure (as amended June 16, 1947)

(b) Interested State commissions may participate as provided by Rules 8 and 37 (f) (18 CFR 1.8 and 1.37 (f)) of the said rules of practice and procedure.

Date of issuance: January 27, 1948.

By the Commission.

[SEAL] LEON M. FUQUAY,  
Secretary.

[F. R. Doc. 48-877; Filed, Jan. 30, 1948;  
8:47 a. m.]

## INTERSTATE COMMERCE COMMISSION

[S. O. 396, Special Permit 430]

### RECONSIGNMENT OF MIXED VEGETABLES AT COFFEYVILLE, KANS.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008) permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard entirely the provisions of Service Order No. 396 insofar as it applies to the reconsignment at Coffeyville, Kans., January 21, 1948, by Carey Fruit Co., of car PFE 96988, mixed vegetables, now on the Santa Fe to Rasmussen & Co., New York City (PRR).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

Issued at Washington, D. C., this 21st day of January 1948.

HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 48-886; Filed, Jan. 30, 1948;  
8:59 a. m.]

[S. O. 396, Special Permit 435]

### RECONSIGNMENT OF BEANS AT CHATTANOOGA, TENN.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008) permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 396 at Chattanooga, Tenn., January 23, 1948, by Brown & Studwell, of car SFRD 24233, beans, now on the Southern to Gridley Maxon & Co., Chicago, Ill. (Sou, C&O, CPT).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C.

Issued at Washington, D. C., this 23d day of January 1948.

HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 48-887; Filed, Jan. 30, 1948;  
8:59 a. m.]

[S. O. 396, Special Permit 430]

### RECONSIGNMENT OF ONIONS AT CHICAGO, ILL.

Pursuant to the authority vested in me by paragraph (f) of the first ordering paragraph of Service Order No. 396 (10 F. R. 15008), permission is granted for any common carrier by railroad subject to the Interstate Commerce Act:

To disregard the provisions of Service Order No. 396 at Chicago Wood St. (CNW) January 23, 1948, by National Produce Co., of car NWX 2318, onions, now on the GNW to Masscari Bros., Memphis, Tenn. (IC).

The waybill shall show reference to this special permit.

A copy of this special permit has been served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and notice of this permit shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D. C.

Issued at Washington, D. C., this 23d day of January 1948.

HOMER C. KING,  
Director  
Bureau of Service.

[F. R. Doc. 48-883; Filed, Jan. 30, 1948;  
9:00 a. m.]

[S. O. 790, Amdt. 1 to Special Directive 40]

### BALTIMORE AND OHIO RAILROAD CO. TO FURNISH CARS FOR RAILROAD COAL SUPPLY

On January 23, 1948, The New York, New Haven and Hartford Railroad Company certified that it had on that date in storage and in cars less than 16 days' supply of fuel coal, and that it is immediately essential that this company increase its coal supply from certain enumerated mines.

The certified statements have been verified and found to be correct.

Therefore, pursuant to the authority vested in me by paragraph (b) of Service Order No. 790, The Baltimore and Ohio Railroad Company is directed:

(1) To furnish to the Delmont No. 11 mine 4 cars per mine working day for the loading of fuel coal from its total available supply of cars suitable for the transportation of coal.

(2) That such cars furnished in excess of the mine's distributive share for the week will not be counted against said mine.

(3) That it shall not accept billing of cars furnished for loading under the provisions of this directive unless billed for fuel coal supply.

(4) To furnish this Bureau, as soon as may be practicable after the end of each week, information showing the total number of cars furnished to said mine for the preceding week under the authority of this directive and to indicate how many such cars were in excess of the weekly distributive share of car supply of such mine.

A copy of this special directive shall be served upon The Baltimore and Ohio Railroad Company and notice of this directive shall be given the public by depositing a copy in the office of the Secretary of the Commission, Washington,

D. C., and by filing it with the Director of the Division of the Federal Register.

Issued at Washington, D. C., this 23d day of January A. D. 1948.

INTERSTATE COMMERCE  
COMMISSION,  
HOMER C. KING,  
Director,  
Bureau of Service.

[F. R. Doc. 48-889; Filed, Jan. 30, 1948;  
9:00 a. m.]

[S. O. 803-A]

#### UNLOADING OF COAL AT TIoga, W VA.

At a session of the Interstate Commerce Commission, Division 3, held at its office in Washington, D. C., on the 26th day of January, A. D. 1948.

Upon further consideration of Service Order No. 803 (13 F. R. 408) and good cause appearing therefor *It is ordered*, That:

(a) Service Order No. 803, *Coal at Tioga, West Virginia, be unloaded*, be, and it is hereby, vacated and set aside.

*It is further ordered*, That this order shall become effective at 11:59 p. m., January 26, 1948; that a copy of this order and direction be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and per diem agreement under the terms of that agreement; and that notice of this order be given to the general public by depositing a copy in the office of the Secretary of the Commission, at Washington, D. C., and by filing it with the Director, Division of the Federal Register.

(40 Stat. 101, sec. 402, 418, 41 Stat. 476, Sec. 4, 54 Stat. 901, 911, 49 U. S. C. 1 (10)-(17), 15 (2))

By the Commission.

[SEAL] W. P. BARTEL,  
Secretary.

[F. R. Doc. 48-890; Filed, Jan. 30, 1948;  
9:00 a. m.]

## SECURITIES AND EXCHANGE COMMISSION

[File Nos. 54-25, 59-11, 59-17]

UNITED LIGHT AND RAILWAYS CO. ET AL.

### SUPPLEMENTAL ORDER APPROVING MODIFICATION OF CREDIT TERMS

At a regular session of the Securities and Exchange Commission held at its office in the city of Philadelphia, Pa., on the 9th day of January A. D. 1948:

In the matter of The United Light and Railways Company, American Light & Traction Company, et al. File Nos. 59-11, 59-17, and 54-25.

The Commission, by order dated December 30, 1947, having approved, inter alia, a proposed bank loan by Austin Field Pipe Line Company ("Austin") in the principal amount not to exceed \$6,500,000 upon substantially the terms and conditions set forth in a Credit Agreement filed as an exhibit in the proceedings with respect to Application No. 31,

as amended, and having authorized Michigan Consolidated Gas Company ("Michigan Consolidated") a parent of Austin and a public utility subsidiary of American Light & Traction Company ("American Light") a registered holding company, to agree to purchase said notes upon substantially the terms and conditions set forth in the form of an agreement attached to said credit agreement; and the Commission having in said order, inter alia, reserved jurisdiction, pursuant to Rule U-24, to pass upon any modification of the terms and conditions of any document previously submitted to the Commission and to entertain, at the request of applicants, such further proceedings and take such further action as may be appropriate regarding any step which may be taken to consummate the proposed transactions; and

American Light, Michigan Consolidated and Austin having filed a joint supplemental application requesting approval of the modification of the terms of said Credit Agreement so as to provide for an interest rate of 2½% instead of 2%, and

The Commission observing no basis for adverse findings under applicable provisions of the act with respect to the requested modification of said Credit Agreement and finding that the said joint supplemental application meets the applicable standards of the act and should be approved:

*It is ordered*, Pursuant to jurisdiction reserved in the order of December 30, 1947 and the provisions of Rule U-24 promulgated under the act, that the modification of the Credit Agreement covering the proposed bank loan by Austin in the principal amount not exceeding \$6,500,000 so as to provide for an interest rate of 2½% instead of 2% be, and hereby is, approved, subject, however, to the jurisdiction reserved in the order of December 30, 1947 and to the conditions specified in Rule U-24.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 48-879; Filed, Jan. 30, 1948;  
8:47 a. m.]

[File No. 70-1720]

MIDDLE WEST CORP.

### ORDER PERMITTING DECLARATION TO BECOME EFFECTIVE

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C., on the 23d day of January A. D. 1948.

The Middle West Corporation ("Middle West") a registered holding company, having filed a declaration, and amendments thereto, pursuant to sections 12 (c) and 12 (d) of the Public Utility Holding Company Act of 1935 ("act") and Rules U-44 and U-46 promulgated thereunder with respect to the following transactions:

Middle West proposes to distribute to its stockholders, as a capital distribution in partial liquidation of the corporation,

on February 26, 1948, to stockholders of the corporation of record at the close of business January 26, 1948, one share of common stock, \$10 par value, of Central Illinois Public Service Company ("Cips") for each two shares of stock of Middle West held on such record date.

Middle West also proposes to distribute, in lieu of fractional shares of common stock of Cips to which any stockholder would be entitled, cash in an amount equal to the market value of such fractional shares on January 26, 1948, as determined by Middle West from sales, or in the absence of known sales, from the average of the bid and asked prices of shares of common stock of Cips in the Chicago and New York markets on January 26, 1948.

Middle West reserves the right to fix a reasonable period of time upon the expiration of which all rights of Middle West stockholders who cannot be located in such period and on behalf of whom no valid claim is made during such period to participate in the proposed distribution shall cease and determine. All future action to be taken by Middle West under such reservation, including the steps necessary to make such determination operative, shall be subject to the approval of the Securities and Exchange Commission.

Middle West has requested that the Commission's order permitting said declaration to become effective contain certain recitals to conform to the requirements of sections 371, 372, 373 and 1808 (f) of the Internal Revenue Code; and

Said declaration having been filed on January 2, 1948, and Notice of Filing having been duly given in the form and manner prescribed by Rule U-23 under said act, and the Commission not having received a request for hearing with respect to said declaration within the period specified in said notice, or otherwise, and not having ordered a hearing thereon; and

The Commission finding with respect to said declaration that the requirements of the applicable provisions of the act and rules thereunder are satisfied and that no adverse findings are necessary thereunder and deeming it appropriate in the public interest and in the interest of investors and consumers to permit said declaration to become effective forthwith and to grant the request of Middle West that the order herein contain certain recitals to conform to requirements of the Internal Revenue Code:

*It is ordered*, Pursuant to Rule U-23 and the applicable provisions of the act and subject to the terms and conditions prescribed in Rule U-24, that said declaration, as amended, be, and hereby is, permitted to become effective forthwith.

*It is further ordered*, That jurisdiction be, and hereby is, reserved to take such further action as may be necessary with respect to the determination of the rights of stockholders of The Middle West Corporation who cannot be located and on behalf of whom no valid claim is made to participate in the capital distribution proposed in the declaration hereinabove permitted to become effective.

*It is further ordered and recited*, That the distribution by The Middle West

Corporation to its stockholders of record at the close of business January 26, 1948, in partial liquidation of The Middle West Corporation, of one share of common stock of Central Illinois Public Service Company for each two shares of stock of The Middle West Corporation outstanding on said date and the distribution, in lieu of fractional shares of stock of Central Illinois Public Service Company, of an amount of cash equal to the market value of the fractional shares on January 26, 1948, as determined by The Middle West Corporation in the manner recited in the declaration hereinabove permitted to become effective, are and each is necessary or appropriate to the integration or simplification of the holding company system of The Middle West Corporation and are necessary or appropriate to effectuate the provisions of section 11 (b) of the Public Utility Holding Company Act of 1935.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 48-878; Filed, Jan. 30, 1948;  
8:47 a. m.]

[File No. 812-534]

CITY STORES CO. ET AL.

#### NOTICE OF APPLICATION

At a regular session of the Securities and Exchange Commission held at its office in the city of Washington, D. C. on the 27th day of January A. D. 1948.

In the matter of City Stores Company, Lit Brothers, and Bankers Securities Corporation, File No. 812-534.

Notice is hereby given that City Stores Company ("City Stores") engaged in the business of managing department stores, with its principal executive office in New York, New York and Lit Brothers, a department store located at Eighth and Market Streets, Philadelphia, Pennsylvania have filed an application pursuant to section 17 (b) of the Investment Company Act of 1940 for an order of the Commission exempting from the provisions of section 17 (a) of the act the proposed purchase by Lit Brothers pursuant to tenders made by City Stores in response to a general call for tenders by Lit Brothers, of 8,292 shares of 6% Cumulative Preferred Stock of Lit Brothers owned by City Stores at a price of \$100.75 per share.

Bankers Securities Corporation ("Bankers") located at No. 1315 Walnut Street, Philadelphia, Pennsylvania is a closed-end, non-diversified, management investment company registered under the act. As of December 31, 1947 Bankers owned 81.38% of the outstanding voting securities of City Stores and City Stores owned 50,979 shares of the preferred stock and 685,483 shares of the common stock or 68.61% of the outstanding voting (common) stock of Lit Brothers. As of the same date Bankers also owned 2.72% of the outstanding voting securities of Lit Brothers.

The tender to Lit Brothers of shares of such preferred stock by City Stores, if accepted by Lit Brothers, would con-

stitute a purchase of such preferred stock by an affiliated person (Lit Brothers) of a registered investment company (Bankers) from a company controlled by such registered company (City Stores) and is prohibited by section 17 (a) of the act. City Stores and Lit Brothers have, therefore, filed an application pursuant to section 17 (b) of the act for an order of the Commission, exempting the proposed purchase from the provisions of section 17 (a) of the act and they assert that the terms of the proposed transaction including the consideration to be paid or received, are reasonable and fair and do not involve over-reaching on the part of any person concerned and that the proposed transaction is consistent with the policy of Bankers as recited in its registration statement and reports filed under the act and is consistent with the general purposes of the act.

All interested persons are referred to said application which is on file at the Washington, D. C., offices of this Commission for a more detailed statement of the matters of fact and law therein asserted.

Notice is further given that an order granting the application may be issued by the Commission at any time after February 11, 1948 unless prior thereto a hearing on the application is ordered by the Commission as provided in Rule N-5 of the rules and regulations promulgated under the act. Any interested person may, not later than February 9, 1948, at 5:30 p. m., in writing, submit to the Commission his views or any additional fact bearing upon the application or the desirability of a hearing thereon or request the Commission, in writing, that a hearing be held thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 425 Second Street, NW., Washington 25, D. C., and should state briefly the nature and interest of the person submitting such information or requesting a hearing, the reason for such request, and the issues of fact or law raised by the application which he desires to controvert.

By the Commission.

[SEAL] ORVAL L. DuBOIS,  
Secretary.

[F. R. Doc. 48-880; Filed, Jan. 30, 1948;  
8:47 a. m.]

## DEPARTMENT OF JUSTICE

### Office of Alien Property

AUTHORITY: 40 Stat. 411, 55 Stat. 839, Pub. Laws 322, 671, 79th Cong., 60 Stat. 50, 925; 59 U. S. C. and Supp. App. 1, 616; E. O. 9193, July 6, 1942, 3 CFR, Cum. Supp., E. O. 9567, June 8, 1945, 3 CFR, 1945 Supp., E. O. 9788, Oct. 14, 1946, 11 F. R. 11981.

[Vesting Order 9376, Amdt.]

TORI YASUI

In re: Stock owned by and debts owing to Tori Yasui.

Vesting Order 9376, dated July 10, 1947, is hereby amended as follows and not otherwise:

By deleting subparagraph 2 (h) of said Vesting Order 9376, and substituting therefor the following:

(h) Twenty (20) shares of \$5.00 par value common capital stock of Warner Bros. Pictures, Inc., 321 W. 44th Street, New York 18, New York, a corporation organized under the laws of the State of Delaware, evidenced by certificates numbered ACO 109721 and FO 41529 for 10 shares each, and registered in the name of Mrs. Tori Yasui, together with all declared and unpaid dividends thereon,

All other provisions of said Vesting Order 9376 and all actions taken by or on behalf of the Attorney General of the United States in reliance thereon, pursuant thereto and under the authority thereof are hereby ratified and confirmed.

Executed at Washington, D. C., on January 21, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director, Office of Alien Property.

[F. R. Doc. 48-893; Filed, Jan. 30, 1948;  
9:02 a. m.]

[Vesting Order 10474]

CONRAD SCHISLER

In re: Estate of Conrad Schisler, deceased. File No. D 28-7527 E. T. 7839.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Eliza (Anna) Rosenstock, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That the personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Eliza (Anna) Rosenstock, who there is reasonable cause to believe are residents of Germany, are nationals of a designated enemy country (Germany)

3. That all right, title, interest and claim of any kind or character whatsoever of the persons identified in subparagraphs 1 and 2 hereof, and each of them, in and to the estate of Conrad Schisler, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

4. That such property is in the process of administration by Andrew D. Schisler, Jr., Executor, acting under the judicial supervision of the Probate Court of Erie County, State of Ohio;

and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof and the personal representatives, heirs, next of kin, legatees and distributees, names unknown, of Eliza (Anna) Rosenstock, are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 14, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 48-902; Filed, Jan. 30, 1948;  
9:01 a. m.]

[Vesting Order 10478]

DOROTHY REINHARDT ET AL.

In re: Trust agreement dated June 15, 1935, between Dorothy Reinhardt et al., settlors and Walter Reinhardt and Marie Kutten Knight, co-trustees. Files D-28-3752-G-1 and D-28-3752.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Arno Thomas, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That all right, title, interest and claim of any kind or character whatsoever of the person named in subparagraph 1 hereof, in and to and arising out of or under that certain trust agreement dated June 15, 1935, by and between Dorothy Reinhardt, Walter Reinhardt, Irwin Reinhardt, Lillian Reinhardt Heitner, Alfred Thomas, Frieda Klueder, Arno Thomas, John Kutten, Nicholas Kutten and Marie Kutten Knight, Settlers, and Walter J. Reinhardt and Marie Kutten Knight, as Co-Trustees, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid nationals of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person identified in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 14, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 48-903; Filed, Jan. 30, 1948;  
9:01 a. m.]

[Vesting Order 10479]

BERTHA SCHMIDT

In re: Estate of Bertha Schmidt, deceased. File D-28-3583; E. T. sec. 5790.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Anna Wagner, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany).

2. That the sum of \$424.91 deposited on December 18, 1942 with the Treasurer of Cook County, Illinois, to the credit of Anna Wagner, pursuant to an order of the Probate Court of Cook County, Illinois, entered on November 10, 1942, in the matter of the estate of Bertha Schmidt, deceased, is property payable or deliverable to, or claimed by, the aforesaid national of a designated enemy country (Germany)

3. That such property is in the process of administration by the Treasurer of Cook County, Illinois, as Depositary, acting under the judicial supervision of the Probate Court of Cook County, Illinois; and it is hereby determined:

4. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 14, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 48-904; Filed, Jan. 30, 1948;  
9:01 a. m.]

[Vesting Order 10491]

MENKA G. M. B. H.

In re. Debt owing to Menka G. m. b. H.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Menka G. m. b. H., the last known address of which is Hamburg, Germany, is a limited liability company, organized under the laws of Germany, and which has or, since the effective date of Executive Order 8389, as amended, has had its principal place of business in Hamburg, Germany, and is a national of a designated enemy country (Germany),

2. That the property described as follows: That certain debt or other obligation owing to Menka G. m. b. H., by Japan Cotton Company, c/o Office of Alien Property, 120 Broadway, New York, New York, in the amount of \$109.84, as of July 25, 1941, together with any and all accruals thereto, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 14, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 48-905; Filed, Jan. 30, 1948;  
9:01 a. m.]

[Vesting Order 10492]

TH. MONNICH

In re: Debt owing to the personal representatives, heirs, next of kin, legatees and distributees of Th. Monnich, deceased. F-28-428-D-1.

Under the authority of the Trading with the Enemy Act, as amended, Execu-

tive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That the personal representatives, heirs, next of kin, legatees and distributees of Th. Monnich, deceased, who there is reasonable cause to believe are residents of Germany are nationals of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation of Pacific Lighting Corporation, 433 California Street, San Francisco 4, California, in the amount of \$566.04, arising out of dividends accrued as of July 3, 1945 on sixty-six (66) shares of no par value common capital stock of said Pacific Lighting Corporation, evidenced by certificate number SFO 52122, registered in the name of Th. Monnich, as life tenant with remainder interest to Friedrich Schilling; and any and all rights to demand, enforce and collect the aforesaid debt or other obligation,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by the personal representatives, heirs, next of kin legatees and distributees of Th. Monnich, deceased, the aforesaid nationals of a designated enemy country (Germany), and it is hereby determined:

3. That to the extent that the personal representatives, heirs, next of kin, legatees and distributees of Th. Monnich, deceased, are not within a designated enemy country the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 14, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 48-906; Filed, Jan. 30, 1948; 9:01 a. m.]

[Vesting Order 10493]

LILIE GASTRICH MUEGGENBURG

In re: Bank account owned by Lille Gastrich Mueggenburg. F-28-7862-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Lille Gastrich Mueggenburg, whose last known address is Barman, Ob. Sehlhof Strausse No. 40, Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the property described as follows: That certain debt or other obligation owing to Lille Gastrich Mueggenburg by Peoples Trust Company of Wyomissing, Pa., Wyomissing, Pennsylvania, arising out of a savings account, account number 18174, entitled Lille Gastrich Mueggenburg, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action, required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 14, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 48-907; Filed, Jan. 30, 1948; 9:01 a. m.]

[Vesting Order 10497]

EDUARD WAGENER

In re: Bank account owned by Eduard Wagener. F-28-7885-E-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Eduard Wagener, whose last known address is Barman, Dorfweise Strausse #16, Germany, is a resident of Germany and a national of a designated enemy country (Germany),

2. That the property described as follows: That certain debt or other obligation owing to Eduard Wagener, by Peoples Trust Company of Wyomissing, Pa., Wyomissing, Pennsylvania, arising out of a savings account, account number 18173, entitled Eduard Wagener, and any and all rights to demand, enforce and collect the same,

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 14, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
Assistant Attorney General,  
Director Office of Alien Property.

[F. R. Doc. 48-908; Filed, Jan. 30, 1948; 9:02 a. m.]

[Vesting Order 10245]

MARTHA SOHRBECK

In re: Rights of Martha Sohrbeck under insurance contract. File No. F-28-1578-H-2.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Martha Sohrbeck, whose last known address is Germany, is a resident of Germany and a national of a designated enemy country (Germany)

2. That the net proceeds due or to become due under a contract of insurance evidenced by policy No. 201238, issued by the West Coast Life Insurance Company, San Francisco, California, to Georg Christian Sohrbeck, together with the right to demand, receive and collect said net proceeds, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany)

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany).

## NOTICES

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on November 25, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
*Assistant Attorney General,  
Director, Office of Alien Property.*

[F. R. Doc. 48-892; Filed, Jan. 30, 1948;  
9:00 a. m.]

[Vesting Order 10347]

KAMADA SHIMABUKURO

In re: Rights of Kamada Shimabukuro under insurance contract. File No. F-39-4859-H-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Kamada Shimabukuro, whose last known address is Japan, is a resident of Japan and a national of a designated enemy country (Japan)

2. That the net proceeds due or to become due under a contract of insurance evidenced by Policy No. 163482, issued by the West Coast Life Insurance Company, San Francisco, Calif., to Kamada Shimabukuro, together with the right to demand, receive and collect said net proceeds, is property within the United States owned or controlled by, payable or deliverable to, held on behalf of, or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Japan),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Japan)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or other-

wise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 15, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
*Assistant Attorney General,  
Director, Office of Alien Property.*

[F. R. Doc. 48-893; Filed, Jan. 30, 1948;  
9:00 a. m.]

[Vesting Order 10366]

GEORGE J. ULMER

In re: Estate of George J. Ulmer, deceased. File No. D-28-10997; E. T. sec. 15399.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Katherine Moeck, nee Heinz, George Heinz, Barbara Heinz, Karl Heinz, and Marie Tauser, nee Heinz, whose last known address is Germany, are residents of Germany and nationals of a designated enemy country (Germany),

2. That all right, title, interest and claim of any kind or character whatsoever of the persons named in subparagraph 1 hereof, and each of them, in and to the estate of George J. Ulmer, deceased, is property payable or deliverable to, or claimed by, the aforesaid nationals of a designated enemy country (Germany)

3. That such property is in the process of administration by John B. Ulmer as administrator, acting under the judicial supervision of the Surrogate's Court of Wyoming County, New York;

and it is hereby determined:

4. That to the extent that the persons named in subparagraph 1 hereof are not within a designated enemy country, the national interest of the United States requires that such persons be treated as nationals of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and, it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on December 19, 1947.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
*Assistant Attorney General,  
Director, Office of Alien Property.*

[F. R. Doc. 48-894; Filed, Jan. 30, 1948;  
9:00 a. m.]

[Vesting Order 10495]

ROBERT SUFFERT

In re: Certificate of deposit owned by Robert Suffert. F-28-28226-A-1.

Under the authority of the Trading with the Enemy Act, as amended, Executive Order 9193, as amended, and Executive Order 9788, and pursuant to law, after investigation, it is hereby found:

1. That Robert Suffert, whose last known address is Dresden, Germany, is a resident of Germany and a national of a designated enemy country (Germany);

2. That the property described as follows: One (1) certificate of deposit for St. Louis-San Francisco Railway Company Prior Lien 4% Series A Gold bond, of \$1,000.00 face value, bearing the number 16691, which certificate of deposit is presently in the custody of the Federal Reserve Bank of New York, 33 Liberty Street, New York, New York, and held by it for the account of the Secretary of the Treasury of the United States, together with any and all rights thereunder and thereto;

is property within the United States owned or controlled by, payable or deliverable to, held on behalf of or on account of, or owing to, or which is evidence of ownership or control by, the aforesaid national of a designated enemy country (Germany),

and it is hereby determined:

3. That to the extent that the person named in subparagraph 1 hereof is not within a designated enemy country, the national interest of the United States requires that such person be treated as a national of a designated enemy country (Germany)

All determinations and all action required by law, including appropriate consultation and certification, having been made and taken, and it being deemed necessary in the national interest,

There is hereby vested in the Attorney General of the United States the property described above, to be held, used, administered, liquidated, sold or otherwise dealt with in the interest of and for the benefit of the United States.

The terms "national" and "designated enemy country" as used herein shall have the meanings prescribed in section 10 of Executive Order 9193, as amended.

Executed at Washington, D. C., on January 14, 1948.

For the Attorney General.

[SEAL] DAVID L. BAZELON,  
*Assistant Attorney General,  
Director, Office of Alien Property.*

[F. R. Doc. 48-867; Filed, Jan. 29, 1948;  
8:52 a. m.]